TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1903.

No. 408.

FREDERICK A. HYDE, APPELLANT,

vs.

JOHN H. SHINE, UNITED STATES MARSHAL, IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA, ET AL.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

FILED OCTOBER 26, 1903.

(19,506.)

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., DECEMBER 28, 1904.

1 In the Circuit Court of the United States for the Ninth Judicial Circuit, Northern District of California.

In the Matter of the Application of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari.

To the honorable judges of the circuit court of the United States for the ninth judicial circuit, northern district of California:

The petition of Frederick A. Hyde respectfully shows:

I.

That your petitioner is a citizen of the United States of America, and is a resident of the northern district of California, and is unlawfully imprisoned and restrained of his liberty by John H. Shine, United States marshal for the northern district of California, in the city and county of San Francisco, State and northern district aforesaid. That your petitioner is held by said United States marshal under color of authority of the United States by virtue of a warrant of removal claimed to have been issued under section 1014 of the Revised Statutes of the United States, dated September 2, 1904, signed by Honorable John J. De Haven, judge of the district court of the United States for the said northern district of California, and has been committed and is detained only under and by virtue of said warrant, and not by virtue of any judgment, decree or final order of any court.

2 II.

That the cause or pretense of the imprisonment and detention of your petitioner according to the best of his knowledge and belief is that a warrant for his arrest was issued by the Honorable E. H. Heacock, United States commissioner for the northern district of California, and that subsequent to the issuance of said warrant, an alleged committment was endorsed thereon by said United States commissioner, to await the order of said United States district judge; a copy of which said warrant, together with the endorsement thereon, is hereto annexed, marked Exhibit "B" and made a part of this petition. That the said warrant of said commissioner was issued upon the verified complaint of one William J. Burns, a copy of which said complaint is annexed hereto, marked Exhibit "C" and made a part of this petition. That accompanying said complaint, and filed with the said commissioner is a copy of a bench warrant issued out of the supreme court of the District of Columbia (holding a criminal court), a copy of which said bench warrant is hereto annexed, marked Exhibit "D" and made a part of this petition. That the indictment referred to

in the said complaint of said William J. Burns, and in the said bench warrant is a certified copy of an indictment alleged to have been found by the grand jury for the United States of America inquiring for the District of Columbia, and returned by said grand jury in the supreme court of the said District of Columbia in the January term of said court of the year 1904, a copy of which alleged indictment is hereto annexed, marked Exhibit "E" and made a part of this petition.

III.

That all of the proceedings had against your petitioner before said United States commissioner Heacock, and before
3 the Honorable John J. De Haven, judge of the said United States district court for the northern district of California were and are based upon said indictment, and the proceedings subsequently had thereunder as herein alleged.

IV.

That on the 23rd day of March, 1904, the matter of the removal of your petitioner came up for hearing before said United States commissioner, and the Government offered in evidence a certified copy of the indictment, a copy of which is annexed to this petition, marked Exhibit "E" as hereinbefore set out. To the admission of this indictment in evidence, your petitioner duly objected upon the ground, among other grounds: First, that the indictment shows upon its face that the Government could not have been defrauded by any of the acts of the defendants as alleged in the indictment; and second, upon the further grounds that the indictment does not state an offense against the laws of the United States, that it is impossible to determine therefrom the charge which the defendants are called upon to answer, and that the said indictment is inconsistent, insensible and repugnant. These objections were overruled, and the indictment received in evidence, as will more fully appear from the stenographic minutes of the proceedings had before said commissioner, which are hereby referred to and made a part hereof.

The Government thereupon rested its case.

Your petitioner thereupon requested the marshal to summon into court the witnesses whose names appeared upon the indictment. It subsequently appeared that all of the witnesses whose names are endorsed upon the indictment were in court, with the exception
4 of three, and that subpœnas had been issued for such witnesses and that return had been made on the subpœnas issued for two of such witnesses, as will appear from the stenographic minutes of the proceedings had before said commissioner, which are hereby referred to and made a part hereof. Counsel for the defendants, and your petitioner, thereupon demanded that the Government examine these witnesses to give testimony to support the indictment. This the Government declined to do, and failed to intro-

duce the witnesses who appeared before the grand jury. The defendants, and your petitioner thereupon called as witnesses in their own behalf the witnesses for the Government.

V.

That at the hearing before said commissioner no evidence was adduced which established, or tended to establish, probable cause to believe your petitioner guilty of the offense sought to be charged in the indictment, or of any offense against the laws of the United States.

VI.

That the said indictment fails to charge your petitioner with the commission of any crime or offense against the laws of the United States; that the said indictment contains no statements of evidentiary facts; that it is inconsistent, contradictory and repugnant.

VII.

That the supreme court of the District of Columbia is without jurisdiction to try your petitioner for the offenses sought to be set out in said indictment; that your petitioner is, and has been for more than twenty years last past a resident of the State of California, and was not within the District of Columbia at any of the
5 times in said indictment set out. That the evidence introduced during the proceedings had before the said commissioner indisputably shows that your petitioner has never been within the District of Columbia except upon one occasion only, for the period of six hours during the year 1901, while en route from San Francisco to New York, and that he did not on that occasion commit any of the offenses or do any of the acts with which he is charged in the said indictment, as is more particularly shown by the stenographic minutes of the proceedings had before the commissioner, which are hereby referred to and made a part hereof. That it appears from said indictment and from the proceedings had before said United States commissioner, that the bulk of the transactions complained of therein occurred in the States of California and Oregon, and not within the District of Columbia; that it appears from said proceedings without dispute that the great majority of the witnesses who could testify with reference to the transactions therein reside in the States of California and Oregon. That it appears from said proceedings that the witnesses who appeared before the grand jury, and who gave testimony in support of said indictment reside in the States of California and Oregon, with the exception of two, who reside in the District of Columbia. All of which more fully appears from the stenographic minutes of the proceedings had before the commissioner, which are hereby referred to and made a part hereof.

VIII.

That it was conceded by the United States Government, and by special counsel for the Government and the proceedings before said commissioner conclusively show that the United States district
6 court in and for the northern district of California, and the United States district court in and for the northern district of Oregon, have jurisdiction of the offenses and matters set out in the indictment, and of the persons and subject matter therein named, and that the defendants named in said indictment are amenable to said courts for the said offenses.

It was conceded by counsel for the Government, and the proceedings show that an indictment could be had against the defendants for the offenses set out in the indictment in either the northern district of California, or in the district of Oregon.

It was conceded by counsel for the Government, and the proceedings show that the matters set out in said indictment may be inquired of by the grand jury of the United States in and for the northern district of California.

All of which more fully appears from the stenographic minutes of the proceedings had before the commissioner, which are hereby referred to and made a part hereof.

IX.

That the imprisonment, detention, confinement and restraint of your petitioner are illegal, and that the illegality thereof consists in this, to-wit:

1. That the aforesaid arrest, commitment, detention and restraint of your petitioner are illegal and contrary to and in violation of the provisions of the Constitution and the amendments thereto. Petitioner is deprived of his liberty without due process of law, in violation of article V. of the amendments to the Constitution of the United States in that the complaint and evidence referred to herein, which were the sole authority for petitioner's arrest and com-
7 mitment aforesaid, charged petitioner with no crime against the United States and show no violation by petitioner of section 5440, U. S. R. S., or any other statutes of the United States, but show affirmatively that no offense has been committed by petitioner against the laws of the United States.

It is further in violation of said Constitution and the amendments thereto, particularly of article V. of said amendments, in that the said United States commissioner and the United States district judge had no jurisdiction to order the arrest and commitment of said petitioner, and in that the petitioner is held to answer for an infamous crime without any sufficient or valid indictment of a grand jury.

2. That the restraint of your petitioner is illegal and in violation of the rights insured and guaranteed to him under the provisions of

article VI, of the amendments to the Constitution of the United States, which provides that in all criminal prosecutions the accused shall be informed of the nature and cause of the accusation against him.

And in this respect your petitioner avers that the indictment presented against your petitioner does not set forth any offense with sufficient clearness or with the certainty necessary to apprise your petitioner of the crime of which he stands charged; that it does not advise your petitioner of the essential particulars of the charge against him; that it is void for uncertainty; that it is void because it is inconsistent, contradictory, insensible and repugnant; that the said indictment contains no statement of evidentiary facts.

3. That the restraint of your petitioner is in violation of the provisions of article IV. of the amendment to the Constitution
8 of the United States, which provides that no warrant shall issue but upon probable cause, supported by oath or affirmation, it appearing that the indictment upon which the warrant in this case was issued is wholly void for the reason that it does not set out with clearness or precision any offense against the laws of the United States, and that it does not inform your petitioner of the nature and cause of the accusation.

And for the further reason that said indictment does not state facts showing a violation by petitioner of section 5440 of the Revised Statutes of the United States, or of any other statute of the United States, but shows affirmatively that no offense has been committed by petitioner against the laws of the United States.

4. That the restraint of your petitioner is in violation of the provisions of article IV. of the United States Constitution, which provides that the people shall be secure in their persons against unreasonable seizures, and in this respect your petitioner avers that it would be unreasonable to remove your petitioner from the State of California, where he resides, to the District of Columbia, for the reasons:—

That the supreme court of the District of Columbia is without jurisdiction to try your petitioner for the offenses sought to be set out in said indictment; that your petitioner is, and has been for more than twenty years last past, a resident of the State of California, and was not within the District of Columbia at any of the times in said indictment set out. That the evidence introduced during the proceedings had before the said commissioner indisputably shows that your petitioner has never been within the District of Columbia, except upon one occasion only, for the period of six
9 hours during the year 1901, while en route from San Francisco to New York, and that he did not on that occasion commit any of the offenses or do any of the acts with which he is charged in the said indictment, as is more particularly shown by the stenographic minutes of the proceedings had before the commissioner, which are hereby referred to and made a part hereof. That it appears from said indictment and from the proceedings had before

said United States commissioner, that the bulk of the transactions complained of therein occurred in the States of California and Oregon, and not within the District of Columbia; that it appears from said proceedings without dispute that the great majority of the witnesses who could testify with reference to the transactions therein reside in the States of California and Oregon; that it appears from said proceedings that the witnesses who appeared before the grand jury, and who gave testimony in support of said indictment reside in the States of California and Oregon, with the exception of two, who reside in the District of Columbia. All of which appears more fully from the stenographic minutes of the proceedings had before said commissioner, which are hereby referred to and made a part hereof.

That it was conceded by the United States Government, and by special counsel for the Government, and the proceedings before said commissioner conclusively show that the United States district court in and for the northern district of California, and the United States district court, in and for the district of Oregon, have jurisdiction of the offenses and matters set out in the indictment, and of the persons and subject matter therein named, and that the defendants named in said indictment are amenable to said courts
10 for the said offenses.

It was conceded by counsel for the Government, and the proceedings show that an indictment could be had against the defendants for the offenses set out in the indictment, in either the northern district of California, or in the district of Oregon.

It was conceded by counsel for the Government, and the proceedings show that the matters set out in said indictment may be inquired of by the grand jury of the United States in and for the northern district of California.

All of which more fully appears from the stenographic minutes of the proceedings had before the commissioner, which are hereby referred to and made a part hereof.

That your petitioner was not found in said District of Columbia, and it is not claimed that he is a fugitive from justice.

That the co-defendants of your petitioner, charged with him in said indictment, do not reside in the said District of Columbia, but reside out of said District of Columbia, to-wit: the defendant Schneider resides in the State of Oregon, and the defendants Benson and Dimond reside in the State of California, and it is not contended that they or either of them are fugitives from justice.

5. That his restraint is illegal and in violation of the rights assured and guaranteed to him under the provisions of article VI. of the amendments to the United States Constitution, which provides that accused persons shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been
11 previously ascertained by law, for the reason that it appears from the indictment and proceedings had before the com-

missioner that the States in which the crime alleged against your petitioner has been committed are the States of California and Oregon, and that your petitioner is therefore entitled to a speedy and public trial upon an indictment for said alleged offense by an impartial jury selected from either the State of California or the State of Oregon.

6. That the restraint of your petitioner as aforesaid is in violation as aforesaid of the provisions of the Constitution of the United States and the laws thereof, and particularly section 1014 of the Revised Statutes of the United States.

X.

It was conceded by counsel for the Government, and the proceedings conclusively show that the matters set out in said indictment may be inquired of by the grand jury of the United States, in and for the northern district of California.

It was conceded by counsel for the Government, and the proceedings conclusively show that the matters set out in said indictment may be inquired of by the grand jury of the United States in and for the district of Oregon.

It was conceded by counsel for the Government, and the proceedings conclusively show that the venue for the facts alleged in said indictment is in the northern district of California, and that said facts alleged in said indictment would warrant an indictment and trial of the defendant named in said indictment in the said northern district of California.

12 It was conceded by counsel for the Government and the proceedings conclusively show, that the venue for the facts alleged in said indictment is in the district of Oregon and that the said facts alleged in said indictment would warrant an indictment and trial of the defendants named in said indictment in the district of Oregon.

All of which more fully and particularly appears from the stenographic minutes of the proceedings had before the commissioner, which are hereby referred to and made a part hereof.

XI.

And your petitioner is informed and verily believes that to properly make his defense to the indictment herein in the event of a trial in the District of Columbia, it will be necessary to summon as witnesses a large number of the persons from whom your petitioner acquired titles to the base lands described in the indictment; that these titles emanate from more than one hundred persons; that they reside in the States of California and Oregon; that to obtain their presence at a trial of this case in the District of Columbia would entail upon your petitioner extraordinary expense, to wit: more than $30,000 and would be imposing upon him an unnecessary burden.

XII.

That your petitioner has duly objected to the continuance of any proceedings under the said indictment and warrant before the said United States commissioner, and has moved for the dismissal thereof, on the ground that the said commissioner has no authority or jurisdiction to proceed therewith on the grounds aforesaid, or any
13 provision of the Constitution of the United States, or the laws thereof, and that said objections have been overruled.

Your petitioner further shows that the indictment referred to herein has been declared void and invalid by the United States circuit court in and for the southern district of New York, in an opinion rendered by Honorable E. H. Lacombe, circuit judge of said court, and a judgment was rendered by said United States circuit court discharging from custody your petitioner's co-defendant upon the ground that the indictment did not set forth facts tending to show a conspiracy to commit an offense against or to defraud the United States. And your petitioner avers that said judgment has not been reversed and that the said court had jurisdiction to render the same.

Wherefore, your petitioner prays that a writ of *habeas corpus* issue directed to John H. Shine, marshal of the United States for the northern district of California, and to any person having your petitioner in custody under the authority of said marshal commanding them to produce the body of your petitioner before this court forthwith, together with the cause of such imprisonment and detention; and further that a writ of certiorari issue directed to E. H. Heacock, United States commissioner for the northern district of California, and George E. Morse, clerk of the district court of the United States, in and for the northern district of California, in aid of the writ of *habeas corpus* aforesaid, requiring the said E. H. Heacock, United States commissioner as aforesaid, and George E. Morse, clerk of the district court of the United States as aforesaid, to return and
14 certify to this court forthwith the cause of the imprisonment of your petitioner and true copies of the proceedings, complaint, warrants, depositions, examinations, determinations, committments and record had before the said E. H. Heacock, or in the possession of him, the said George E. Morse, for such action as may be proper in the premises.

Dated August — 1901.

F. A. HYDE, *Petitioner.*

UNITED STATES OF AMERICA, }
Northern District of California, } ss:

Frederick A. Hyde being duly sworn, deposes and says that he has read the foregoing petition and knows the contents thereof and that the same is in all respects true.

F. A. HYDE.

Subscribed and sworn to, before me, this 2nd day of September, 1904.

JOHN FOUGA,
[SEAL.] *Deputy Clerk, U. S. District Court, Northern District of California.*

15 EXHIBIT "B."

UNITED STATES OF AMERICA,
Northern District of California, City and County of San Francisco, } *ss:*

The President of the United States of America to the marshal of the United States for the northern district of California, and to his deputies, or any or either of them, Greeting:

Information on oath having this day been laid before me, by William J. Burns, that the crime of violating section 5440 of the Revised Statutes of the United States as alleged in the certified copy of the "Affidavit of complaint" hereto prefixed and hereby referred to and made a part hereof, has been committed and accusing Frederick A. Hyde and Henry P. Dimond thereof, you are therefore commanded in the name of the President of the United States of America, to arrest the above named Frederick A. Hyde and Henry P. Dimond and take them before me, or the nearest United States commissioner, or the nearest judicial officer having jurisdiction under existing laws for a hearing, committment, or taking bail for trial, that they may then and there be dealt with according to law, for the said offense.

Given under my hand, at my office, in the city and county of San Francisco, in the district aforesaid, this 21st day of March, A. D. 1904.

E. H. HEACOCK,
United States Commissioner for the Northern District of California, at San Francisco.

(Endorsed:) Marshal's docket, No. 2242. No. 1501. The United States of America *vs.* Frederick A. Hyde, *et al.* Warrant of arrest. Filed March 22nd, A. D. 1904. E. H. Heacock, U. S. commissioner for the northern district of California at San Francisco.

16 *Marshal's Return.*

In obedience to the within warrant, I have the body of Frederick A. Hyde, Henry P. Dimond before E. H. Heacock U. S. commissioner, at San Francisco, this 22nd day of March, 1904.

JOHN H. SHINE,
U. S. Marshal,
By GEO. H. BURNHAM,
Deputy Marshal.

17 It appearing to me that the offense herein complained of has been committed and there being sufficient reason to believe defendants Frederick A. Hyde and Henry P. Dimond guilty thereof I order that they be held to answer the same before the supreme court of the District of Columbia on the first day of the next regular term thereof to be begun and held at the city of Washington in the District of Columbia aforesaid, and that the said Frederick A. Hyde be admitted to bail in the sum of fifty thousand dollars, and the said Henry P. Dimond be admitted to bail in the sum of twenty thousand dollars for their appearance respectively for trial upon said charge before said court at the time and place aforesaid, and that in default of such bail they be committed to the custody of the United States marshal for the northern district of California to await such order as the judge of the district court of the United States for the northern district of California shall make in the premises or until they be discharged by due course of law.

San Francisco, May 14th, 1904.

E. H. HEACOCK,
U. S. Commissioner for the Northern District of California, at San Francisco.

18 EXHIBIT "C."

NORTHERN DISTRICT OF CALIFORNIA, } ss:
City and County of San Francisco, }

Before me, E. H. Heacock, a United States commissioner for the northern district of California, at San Francisco, personally appeared this day William J. Burns, whom being first duly sworn, upon his oath complains and says: That Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, late of the city of Washington, in the District of Columbia, at Washington aforesaid, in the said District of Columbia, on the several days mentioned in a certain indictment now pending against the above named defendants in the supreme court for the said District of Columbia (a certified copy of which indictment is attached to and made a part of this complaint) as being the days upon which the several offenses charged in the several counts of the said indictment were committed unlawfully, did conspire, combine, confederate and agree together and with divers other persons to this complainant unknown, knowingly, wickedly and corruptly to defraud the said United States of America out of the possession of the public lands of the said United States, in the manner, by the means and under the circumstances and conditions in the said several counts of the said indictment set forth; and further, that in pursuance of the said unlawful conspiracy, combination, confederation and agreement and to effect the object of the same, and to appropriate and defraud the said United States out of the possession, and use of and the title to

the several tracts of public lands in the same indictment described, at the several times and places in the indictment mentioned, several of said defendants unlawfully did commit the several overt
19 acts set forth therein, all in violation of section 5440, of the Revised Statutes of said United States.

Wherefore this complainant prays that said Frederick A. Hyde and Henry P. Dimond, who are now in the said northern district of California, may be apprehended and further dealt with according to law.

WM. J. BURNS.

Sworn to and subscribed before me, this 21st day of March, A. D. 1904.

E. H. HEACOCK,
United States Commissioner as Aforesaid.

(Endorsed:) No. 1501. The United States of America *vs.* Frederick A. Hyde *et al.* Affidavit of complaint. Filed March 21st, A. D. 1904. E. H. Heacock, U. S. commissioner for the northern district of California, at San Francisco.

20 EXHIBIT "D."

In the Supreme Court of the District of Columbia, Holding a Criminal Court.

THE UNITED STATES, Plaintiff, *vs.* FREDERICK A. HYDE, Defendant. } Criminal No. 24144. Indicted for Violation of Section 5440, R. S. U. S.

The President of the United States to the United States marshal for the District of Columbia, Greeting:

You are hereby commanded to take the defendant Frederick A. Hyde, if to be found in your district, and him have before the criminal court for the said District of Columbia (immediately) to answer the United States touching the offence charged against him.

Hereof fail not, and have then and there this writ, so endorsed as to show how you have executed it.

Witness the Honorable Harry M. Clabough, chief justice of said court, the 17th day of February, A. D. 1904.

J. R. YOUNG, *Clerk*,
[SEAL.] By H. W. SMITH.

Endorsed: Criminal court No. 1. Criminal No. 24,144. United States *vs.* Frederick A. Hyde. Issued February 17, 1904.

21

EXHIBIT "E."

In the Supreme Court of the District of Columbia, Holding a Criminal Court, of the January Term, in the Year of Our Lord Nineteen Hundred and Four.

DISTRICT OF COLUMBIA, *sct:*

The grand jurors for the United States of America, inquiring for the District of Columbia, upon their oath present, that on the twenty-fourth day of October, in the year of our Lord nineteen hundred and one, and from thence until the first day of February, in the year of our Lord nineteen hundred and four, Frederick A. Hyde and John A. Benson were engaged, at the city of San Francisco, in the State of California, for their own profit, gain, use and benefit, respectively, in the business of obtaining from the said United States and appropriating, in the manner hereinafter set forth, the possession and use of and title to public lands of the said United States outside of forest reserves established under the laws of the said United States, in exchange for and in lieu of lands lying within such forest reserves and known as school lands, by them the said Frederick A. Hyde and John A. Benson obtained from the States of California and Oregon in the manner hereinafter set forth; that Henry P. Dimond was, during the said period, an employee, agent and attorney for hire of the said Frederick A. Hyde and John A. Benson in the matter of their said business; that Joost H. Schneider was, during the said period, an agent and employee for hire of the said Frederick A. Hyde and John A. Benson in the matter of their said business; that Woodford D. Harlan and William E. Valk were, before and during the said period, employees of the said United States holding official positions in the General Land Office of the said United States at the city of Washington, in the said District of Columbia, and as such employees were paid fixed salaries respectively and were respectively charged with duties pertaining to the disposal of the public lands of the said United States, and especially to the exchanging of such public lands, lying outside of forest reserves established under the laws of the said United States in that behalf, and open to selection under the said laws, in exchange for and in lieu of lands within such forest reserves; that Benjamin F. Allen was, before and during the said period, an employee of the said United States in the public-land service, that is to say, a forest superintendent; and that Grant I. Taggart was, before and during the same period, an employee of the said United States in the said public-land service, that is to say, a forest supervisor.

22 And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, during

the period aforesaid, to wit, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, at Washington aforesaid, in the said District of Columbia, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the said grand jurors unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of, and the title to, divers large tracts of the public lands of the said United States open and to be open to selection, under the laws of the said United States in that behalf, in lieu of lands included and to be included within the limits of forest reserves, established and to be established as aforesaid in the said States of California and Oregon, by obtaining, for the profit, gain, use and benefit of themselves, as in this count of this indictment hereafter set forth, from the said United States, and appropriating, such possession, use and title, in pursuance and by means of a false and fraudulent practice whereby the said Frederick A. Hyde and John A. Benson were to obtain fraudulently from the said States of California and Oregon title to and possession of school lands lying within the limits of such forest reserves and open to purchase from those States, by residents thereof respectively, (being citizens of the said United States or persons having declared their intention to become such,) under the laws thereof respectively, in quantities not exceeding, for each of such residents, six hundred and forty acres in the said State of California and three hundred and twenty acres in the said State of Oregon, upon application being made to the proper authorities of the said States respectively, by any such resident, supported by his affidavit, showing his qualifications to make such purchase, and, amongst other things (as before and during the said period was required by the laws of the said States,) his intention to purchase such lands in good faith and for his own benefit, and that he has made no contract or agreement to sell the same,—which said school lands were to be so obtained from the said States by making and filing with the said authorities applications for the purchase of the same, and assignments of the same, and of the certificates of purchase thereof, in the names of fictitious persons, and in the names of persons not really desiring, and not qualified, to purchase the same, (the use of which last-mentioned names for such purposes the said Frederick A. Hyde and John A. Benson would procure by paying and causing to be paid to such persons respectively small sums of money, and by falsely representing and causing to be represented to some of such persons that they were merely disposing of their respective rights to purchase such school lands,)—and by supporting such applications with forged and fraudulent affidavits and affidavits false, and known to the said Frederick A. Hyde and John A. Benson to be false, in this, that they would purport to be, some the affidavits of real persons, and others the *bona-fide* sworn affidavits of the persons whose names were signed thereto, whereas in truth and in fact the former would be the affidavits of fictitious persons and would not be the affidavits of real persons or affidavits sworn to by any person, and the latter

23 would not be the *bona-fide* or sworn affidavits of the persons whose names were signed thereto, because such latter affidavits would not only state that the affiants therein were persons qualified under the laws of the said State of California, or of the said State of Oregon, as the case might be, to make such applications and to purchase such lands, by reason, amongst other things, of their intending to purchase the same in good faith and for their own benefit respectively, and of their having made no contract or agreement to sell the same, while in truth and in fact none of such real persons would intend to purchase such lands in good faith for his own use or benefit at all, but would be either knowingly aiding and assisting the said Frederick A. Hyde and John A. Benson in their said fraudulent practice or innocently acting upon their said false representations, but because, also, the said latter affidavits would not in truth and in fact have ever been sworn to at all by any of the persons whose names were signed thereto; and whereby the said Frederick A. Hyde and John A. Benson were to cause to be relinquished, assigned, transferred and conveyed, by means of false and forged relinquishments, assignments and conveyances, to the said United States, either directly, or indirectly either through the said Frederick A. Hyde, or through divers agents and attorneys of the said Frederick A. Hyde and John A. Benson, to wit, Crawford W. Clarke, A. S. Baldwin, Isaac Liebes, Elizabeth Dimond, and others whose names are to the said grand jurors unknown, as would be found convenient or necessary, the pretended rights of such fictitious persons respectively, and require and procure such real persons to make relinquishments, assignments, transfers and conveyances, either directly, or indirectly through the said Frederick A. Hyde, or through the said agents and attorneys of the said Frederick A. Hyde and John A. Benson, as would be found convenient or necessary, to the said United States, of the titles to and possession of such school lands so by the use of the names of such real persons fraudulently to be obtained from the said States, and this, in either case, in exchange as aforesaid for public lands to be selected, and for titles thereto by patent to be obtained, by and on behalf of the said Frederick A. Hyde and John A. Benson in the names of such fictitious or real persons, or in the names of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) Crawford W. Clarke, (under the designation of C. W. Clarke,) A. S. Baldwin, or Isaac Liebes, or under the name of Elizabeth Dimond, or of F. A. Hyde & Co., as would be found convenient or necessary, from the public lands of the United States, in lieu of such school lands lying within the limits of such forest reserves as aforesaid; and whereby the said Frederick A. Hyde and John A. Benson were in like manner to exchange such school lands already, before the said period, obtained by them from the said States in the same fraudulent manner, for public lands of the said United States lying outside of the limits of forest reserves and open to selection as aforesaid, and for titles by patent thereto as afore-

said,—they the said Frederick A. Hyde and John A. Benson, when so as aforesaid causing to be relinquished, assigned, transferred and conveyed to the said United States the titles to and exchanging the school lands, so by either of the methods aforesaid
24 fraudulently obtained and to be obtained from the said States, for public lands of the said United States as aforesaid, and for titles by patent thereto, well knowing such titles to such school lands to be, as they were and would be, false, fraudulent, fictitious, void and worthless, and the possession acquired thereunder unlawful, and intending thereby, and by afterwards selling and disposing of such public lands and patent-titles to the general public, to defraud the said United States out of the possession and use of, and of the title to, the public lands so to be selected, obtained and appropriated in lieu of such school lands as aforesaid, to the profit, gain, use and benefit of themselves as aforesaid; and whereby the said Frederick A. Hyde and John A. Benson were, during the said period, to induce and procure, and take advantage of the fact that they had before the said period induced and procured, the said Woodford D. Harlan and William E. Valk, by paying to them respectively divers large sums of money for that purpose, corruptly to furnish to the said Frederick A. Hyde and John A. Benson information concerning the status in the said General Land Office of all matters pertaining to their said business, and especially to their selections of public lands of the said United States based upon the false, fraudulent, fictitious, void and worthless titles to lands obtained by them in the manner aforesaid from the said States of California and Oregon, and to be exchanged for such public lands as aforesaid, and to expedite, contrary to their duty as such employees of the said United States, the matters which should be pending in the said General Land Office pertaining to the said business and to the examination of such selections, made and to be made by and on behalf of the said Frederick A. Hyde and John A. Benson as aforesaid, by securing the approval thereof in advance of the time when in the due course of business they would be approved by the proper officers of the said General Land Office, and otherwise favoring and assisting the said Frederick A. Hyde and John A. Benson in their said business and fraudulent practice in that behalf in every way in their power; and whereby the said Frederick A. Hyde and John A. Benson were, during the said period, in like manner to induce and procure the said Woodford D. Harlan and William E. Valk corruptly to furnish to them the said Frederick A. Hyde and John A. Benson information concerning any discovery or investigation of the said fraudulent practice of them the said Frederick A. Hyde and John A. Benson by the officials of the Department of the Interior of the said United States or of the said General Land Office, to the end that the said Frederick A. Hyde and John A. Benson might be enabled to defeat the object of such investigation; and whereby, also, the said Frederick A. Hyde and John A. Benson were, during the said period, to induce and procure, and take advantage of the fact

that they had before the said period induced and procured, the said Benjamin F. Allen and Grant I. Taggart, forest superintendent and forest supervisor respectively as aforesaid, by paying and giving to them respectively sums of money and other valuable consideration, for that purpose, (notwithstanding it was, before and during the period aforesaid, the duty of each of them, as such forest superintendent and forest supervisor respectively, under the laws of the said United States pertaining thereto and under the rules, regulations and instructions, general and special, of the said Department of the Interior, to furnish to, and only to, their superior officers respectively in the said Department of the Interior and in the said General Land Office all information gathered by them in their official capacity, and themselves to make and transmit to their said superior officers respectively, for the consideration of those officers in determining the advisability of including, or not including, public lands of the said United States within, or excluding the same from, forest reserves of the said United States, true and accurate official reports and recommendations, based upon their own official investigations and knowledge respectively, concerning the character and condition of such of the public lands of the said United States as might come under their official supervision respectively, and concerning the advisability of including, or not including, such lands within, or excluding the same from, such forest reserves,) corruptly and contrary to their said duty to furnish to the said Frederick A. Hyde and John A. Benson, all information gathered by them in their said official capacity respectively, and allow the said Frederick A. Hyde and John A. Benson to prepare and make for them the said Benjamin F. Allen and Grant I. Taggart respectively, and in their respective names as such forest superintendent and forest supervisor, divers of *of* such official reports and recommendations concerning the character and condition of such of the public lands of the said United States as had and should come under the official supervision of them the said Benjamin F. Allen and Grant I. Taggart as aforesaid, and in favor of including, or not including, such lands within such forest reserves, or excluding the same therefrom, as should be to the interest of them the said Frederick A. Hyde and John A. Benson in the premises, and to transmit the reports and recommendations so prepared and made by the said Frederick A. Hyde and John A. Benson to their said superior officers,—it being, as the grand jurors aforesaid, upon their oath aforesaid, charge the fact to be, a part of the said unlawful conspiracy, combination, confederation and agreement of them the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider to secure, by this and other means too numerous and diverse to be here described, the establishment of forest reserves under the laws of the said United States in such localities in the said States of California and Oregon as would, by reason of the fact that large quantities of the school lands aforesaid in such localities were still undisposed of by, and open to purchase from, the said

States respectively, best effect the object of the said unlawful conspiracy, combination, confederation and agreement; and whereby the said Henry P. Dimond, as employee, agent and attorney for the said Frederick A. Hyde and John A. Benson as aforesaid, for money and other valuable consideration, to be paid to him by the said Frederick A. Hyde and John A. Benson on that account, was in that capacity to aid and assist the said Frederick A. Hyde and John A. Benson in their said business,
26 by appearing in their behalf before the proper officers of the said Department of the Interior and of the said General Land Office, at Washington aforesaid, and from time to time urging speedy action by those officers upon the matters there pending pertaining to the said business, and otherwise furthering the said business of the said Frederick A. Hyde and John A. Benson in the divers ways hereafter in this indictment shown,—he the said Henry P. Dimond, when so aiding and assisting the said Frederick A. Hyde and John A. Benson in their said business, well knowing the fraudulent character of that business and of the matters pertaining thereto under his supervision as such employee, agent and attorney, and that his acts as such employee, agent and attorney in so aiding and assisting the said Frederick A. Hyde and John A. Benson in their said business, were done in pursuance and to effect the object of the said unlawful conspiracy, combination, confederation and agreement; and whereby the said Joost H. Schneider was, in the capacity of their employee for hire, to aid and assist the said Frederick A. Hyde and John A. Benson in obtaining from the said States of California and Oregon the false, fraudulent, fictitious, void and worthless titles to and unlawful possession of the school lands aforesaid, in the manner aforesaid, by negotiating, in behalf of the said Frederick A. Hyde and John A. Benson, with the persons willing to sell and allow the use of their names for the purpose of making applications to purchase such school lands as aforesaid, and for making affidavits in support of such applications, and for relinquishing, transferring and conveying the said school lands to the said United States as aforesaid, and by making to other persons, in behalf of the said Frederick A. Hyde and John A. Benson, the false representations aforesaid as to the character and effect of the documents to be signed by them respectively, and so procuring the use of the names of all of such persons for the purposes aforesaid, and also by forging, and procuring to be forged, the necessary documents for securing the titles to such lands from the said States in the names of fictitious persons, and for relinquishing, transferring and conveying the same to the said United States as aforesaid,—he the said Joost H. Schneider, when so aiding and assisting the said Frederick A. Hyde and John A. Benson in the manner aforesaid, well knowing the fraudulent character of such applications, affidavits, relinquishments, transfers, assignments and conveyances, and that they were to be made and used for the purposes aforesaid.

And the grand jurors aforesaid, upon their oath aforesaid, do fur-

ther present, that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain of the tracts of public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Olympia land district, in the State of Washington, which when surveyed, would be known and described as the south half of the northeast quarter, the southeast quarter, the east half of the southwest quarter, and the southwest quarter of the southwest quarter, of
27 section ten, the south half and the northeast quarter of section twenty-six, and all of sections fourteen, twenty-two, twenty-eight and thirty-four, in township fifteen north, range six west, (reference being had to the Willamette meridian and base line,) containing in all three thousand and four hundred acres, then lately before, in pursuance of the said fraudulent practice, selected in the name of Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of Oregon and California, in pursuance of the same fraudulent practice, and in the manner and by the means aforesaid, some then lying within the limits of the Cascade Range forest reserve, in the said State of Oregon, and known and described as sections sixteen of townships nineteen south, in ranges seven, eight and nine east, the northwest quarter, and south half of the northeast quarter, of section thirty-six, in township twenty south, range eight east, the southeast quarter of the northeast quarter of section sixteen, in township seventeen south, range nine east, all of section thirty-six, in township twenty-one south, range seven east, and the east half of the southwest quarter of section thirty-six, in township twenty south, range nine east, (reference being had to the said Willamette meridian and base line,) and others then lying within the limits of the Sierra forest reserve, in the said State of California, and known and described as the northwest quarter of section sixteen, in township twenty-one south, range thirty-four east, the southwest quarter of section thirty-six, in township twenty-three south, range thirty-seven east, and the southeast quarter of section thirty-six, in township twenty-three south, range thirty-five east, (reference being had to the Mount Diablo meridian and base line,) containing in all three thousand and four hundred acres, (the said forest reserves being forest reserves then lately before established under the laws of the said United States,) the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the said General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 2904, for lands in sections 14, 22, 26, 28, and 34, T. 15 N., R. 6 W., Olympia, Washington, in lieu of lands in T. 19 S., R. 7 E., 19 S., 8 E., 19 S., 9 E., 20 S., 8 E., 21 S., 7 E., 20 S., 9 E., Oregon, and T. 3 N., 24 E., 21 S., 34 E., 23 S., 37 E., 23 S., 35 E., M. D. M., California, and request the usual notice of action.

Very respectfully,

____ ____,

Attorney for C. W. Clarke.

28 he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

2. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves as in the said first count set forth, such possession, use and title; and that in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands afore-

said, that is to say, the lands lying in the Visalia land district, in the said State of California, known and described as section fourteen, in township nineteen south, range fifteen east, (reference being had to the Mount Diablo meridian and base line,) and containing six hundred and forty acres, then lately before selected, by and in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as section sixteen, in township thirty-seven south, range five east, (reference being had to the Willamette meridian and base line,) containing six hundred and forty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in
29 the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor which here follows:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DECEMBER 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 961, covering all of sec. 14, T. 19 S., R. 15 E., M. D. M., Visalia, California, in lieu of all of sec. 16, T. 37, S., R. 5 E., Roseburg, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the twentieth day of January, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General

Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." JANUARY 20, 1902.

To the Hon. Binger Herman, Commissioner of the General Land Office.

SIR: In the matter of forest reserve lieu selection No. 961, of F. A. Hyde, for all of sec. 14, T. 19 S. R. 15 E. M. D. M. in lieu of all sec. 16 T. 37 S. R. 5 E., W. M., Roseburg dist. Ore.

I respectfully urge that this selection be the subject of early consideration on the record as it now stands in your office, and that prompt action be had thereon with a view to approval.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the seventh day of July, in the same year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, unlawfully did transmit by mail of the said United States, from the city of San Francisco, in the said State of California, to the said Commissioner of the said General Land Office, at Washington aforesaid, in the said District of Columbia, a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, 415 Montgomery St., San Francisco.

Dictated by H. P. D.

"R."

D. SAN FRANCISCO, CAL., *July* 7, 1902.

Commissioner of the General Land Office, Washington, D. C.

SIR: I have the honor to file herewith in behalf of F. A. Hyde in the matter of his forest lieu selection No. 961 for all of sec. 14, T. 19 S., R. 15 E., M. D. M., Visalia land district, California, non-mineral, non-saline and non-occupancy affidavit of Chas. W. Sawyer, dated July 2, 1902.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond then and there, to wit, at the several times and places of so presenting and transmitting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented and transmitted in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

3. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond, and Joost H. Schnieder, on the twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect
31 the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Visalia land district, in the said State of California, known and described as the south half and the northwest quarter of section twenty-six, in township nineteen south, range fifteen east, (reference being had to the Mount Diablo meridian and base line,) containing four hundred and eighty acres, then lately before selected, by and in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and

described as the northwest quarter of section sixteen, in township twenty-three south, range seven east, and the south half of section thirty-six, in township twenty-three south, range nine east, (reference being had to the Willamette meridian and base line,) containing in all four hundred and eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 962, covering the S. ½ & N. W. ¼ of sec. 26, T. 19 S., R. 15 E., M. D. M., Visalia, Cal., in lieu of lands in sec. 16, Tp. 23 S., R. 7 E., and 36, T. 23, R. 9, W. M., Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the twentieth day of January, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

32

Henry P. Dimond, attorney at law, Glover building, 1419 F street, N. W., Washington, D. C.

"R." JANUARY 20, 1902.

To the Hon. Binger Hermann, Commissioner of the General Land Office.

SIR: In the matter of forest reserve lieu selection No. 962, of F. A. Hyde, for S./2/N. W./4 of section 26, T. 19 S. R. 15 E. M. D. M. in lieu of N. W./4 section 16, T. 23 S. R. 7 E. and S./2 sec. 36, T. 23 S. R. 9 E. W. M. Lakeview dist. Ore.

I respectfully urge that this selection be the subject of early consideration on the record as it now stands in your office, and that prompt action be had thereon with a view to approval.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Frederick A. Hyde, afterwards, to wit, on the twentieth day of March, in the year of our Lord nineteen hundred and three, and during the period mentioned in the said first count of this indictment, unlawfully did cause to be transmitted, by mail of the said United States, from the United States land office at Visalia, in the said State of Caliiornia, to the then Commissioner of the said General Land Office at Washington aforesaid, in the said District of Columbia, a certain document, that is to say, a document of the tenor following:

Whereas, the undersigned, F. A. Hyde, whose post office address is San Francisco, California has made application to select under the provisions of the act of June 4, 1897, (30 Stats., 36), in the U. S. land office at Visalia, California, the following described tract:

The west half of section twenty-six (26), in township nineteen (19) south of range fifteen (15) east of Mount Diablo meridian.

And whereas, it is provided by circular "P," dated January 29, 1900, of the honorable Commissioner of the General Land Office, that a notice of such selection be posted on the ground described in the application, and the proof of such posting be filed in the U. S. land office for the district in which the land is situated.

Now, therefore, Burt E. Rice is hereby duly authorized and appointed as my agent to post notices on the ground described in my said application, and to make affidavit of that fact, and also of the fact that said notices remain posted during the period of publication.

F. A. HYDE.

San Francisco, California, November 24th, 1902.

they the said Henry P. Dimond and Frederick A. Hyde then and there, to wit, at the several times and places of so presenting and causing to be transmitted the several letters and the document in this count of this indictment mentioned, to the said Commissioners of the said General Land Office, respectively well knowing the contents of each of the same letters, and of the said document, and well knowing that the same respectively pertained to, and were so presented
33 and caused to be transmitted in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said

United States, and contrary to the form of the statute of the same in such case made and provided.

4. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain of the tracts of the public lands aforesaid, that is to say, certain lands lying in the Vancouver land district, in the State of Washington, and in township six north, range five east, (reference being had to the Willamette meridian and base line,) containing in all seven hundred and sixty acres, a further description whereof is to the said grand jurors unknown, then lately before selected, by and in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu, amongst other lands, of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of Oregon and California, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and known and described as the northeast quarter, the northeast quarter of the northwest quarter, and the southwest quarter of the southwest quarter, of section thirty-six, in township twenty-three south, range seven east, and the west half of section sixteen, in township sixteen south, range nine east, and the north half of the southeast quarter, and the southwest quarter of the southeast quarter, of section thirty-six, in township one south, range eight east, (reference being had to the said Willamette meridian and base line,) and the northwest quarter of the southwest quarter of section sixteen, in township six north, range twenty-two west, (reference being had to the San Bernardino

meridian and base line,) and the northwest quarter
34 of the northeast quarter of section sixteen, in township twenty-five south, range thirty-five east, (reference being had to the Mount Diablo meridian and base line,) containing in all seven hundred and sixty acres, and then lying within the limits of certain forest reserves then lately before established under the laws of the said United States, that is to say, the lands described with reference to the said Willamette meridian and base line in the Cascade Range forest reserve, in the said State of Oregon, the lands described with reference to the said San Bernardino meridian and base line in the Pine Mountain and Zaca Lake forest reserve, in the said State of California, and the lands described with reference to the said Mount Diablo meridian and base line in the Sierra forest reserve, in the said State of California, the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DECEMBER 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde in the matter of forest lieu selection No. 3144, under act of June 4, 1897, to select certain land in secs. 15, 16, 28, 32, 33, and 34, T. 6 N., R. 5 E., W. M., Washington, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the second day of May, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." MAY 2, 1902.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to file herewith in behalf of F. A. Hyde in the matter of forest reserve lieu selection No. 3144 and in compliance with letter "R" of Feb'y 28, 1902, certificates from the county auditor and county tax collector of Ventura county, to the effect that the taxes on said sec. 16 have been paid in full and that no taxes remain a lien thereon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

35 and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the twenty-second day of July, in the same year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, unlawfully did transmit, by mail of the said United States, from the city of San Francisco, in the said State of California, to the said Commissioner of the said General Land Office, at Washington aforesaid, in the said District of Columbia, a certain other letter, that is to say, a letter of the tenor following:

Codes:
Western Union
Anglo-American

Cable address:
"Contax"

Henry F. Dimond, attorney at law, 415 Montgomery St., San Francisco.

"R." SAN FRANCISCO, CAL., *July* 22, 1902.
D.

Hon. Binger Hermann, Commissioner of the General Land Office, Washington, D. C.

SIR: I have the honor on behalf of the selector, in the matter of lieu selection No. 3144, under the act of June 4th, 1897 (30 Stat. 36), to select the N. W. ¼ of S. W. ¼, sec. 15, N. ½ of S. E. ¼ sec. 16, S. W. ¼ of S. E. ¼ sec. 28, N. E. ¼ of sec. 33, S. ½ of N. W. ¼, E. ½ of S. E. ¼ sec. 32, T. 6 N., R. 5 E., W. M., with other lands, Vancouver, Wash. in lieu of the N. E. ¼, N. E. ¼ of N. W. ¼, N. ½ of S. W. ¼ and S. W. ¼ of S. W. ¼ sec. 36, T. 23 S., R. 7 E., W. M., in the Cascade forest re-

serve, Ore. and the E. ½ of S. E. ¼ sec. 14, E. ½ of N. E. ¼ sec. 23, T. 10 N., R. 28 W., S. B. M. in the Pine Mountain and Zaca Lake forest reserve, Cal., and other lands, to call your attention to the fact that in view of departmental rulings, an abandonment has been filed, covering the N. ½ of S. E. ¼ of sec. 16, T. 6 N., R. 5 E., W. M., and all of the other requirements of your office having been previously complied with, I now respectfully ask that said selection be forthwith approved.

Very respectfully,

HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond then and there, to wit, at the several times and at the places of so presenting and transmitting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented and transmitted in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

5. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Diamond, and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indict-
36 ment, at Washington aforesaid, in said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Woodward land district, in the Territory of Oklahoma, known and described as the southeast quarter of the northeast quarter of section twenty-four, in township four north, range three east, (reference being had to the Cimarron meridian and base line,) containing forty

acres, then lately before selected, by and in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde.) on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve in the said State of Oregon, and known and described as the northwest quarter of the northwest quarter of section thirty-six, in township thirty-seven south, range five east, (reference being had to the Willamette meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirteenth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the said General Land Office of the said United States, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 2027, for the S. E. ¼ N. E. ¼ of sec. 24, T. 4 N., R. 3 E., W. Woodward, Oklahoma Ter., in lieu of the N. W. ¼ N. W. ¼ of sec 36, T. 37 S., R. 5 E., Roseburg, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the thirteenth day of May, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

MAY 13, 1902.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to file herewith in behalf of F. A. Hyde in the matter of forest lieu selection No. 2027, affidavit of Fred Mahl dated April 25th 1902, as to character of said selected land described in the application on file and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

6. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established
38 and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Stockton land district, in

the said State of California, known and described as lot number six *in*, and the northeast quarter of the southwest quarter of, section six, in township one north, range seventeen east, (reference being had to the Mount Diablo meridian and base line,) containing sixty-eight and fifty-six one-hundredths acres, then lately before selected, by and in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) on behalf of the said Frederick A. Hyde and the said John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the south half of the northwest quarter of section thirty-six, in township twenty-three south, range seven east, (reference being had to the Willamette meridian and base line,) containing eighty acres, the said Henry P. Dimond, afterwards, to wit on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 3360, for lot 6 & N. E. ¼ S. W. ¼ of sec. 6, T. 1 N., R. 17 E., M. D. M., Stockton, California, in lieu of the S. ½ S. W. ¼ of sec. 36, T. 23 S., R. 7 E., Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office,
39 well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

7. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson,

Henry P. Dimond and Joost H. Schneider, on the twenty-seventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Seattle land district, in the State of Washington, which, when surveyed, would be known and described as the west half of the northwest quarter of section twenty-eight, in township twenty-two north, range eight east, (reference being had to the Willamette meridan and base line,) containing eighty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the south half of the northeast quarter of section thirty-six, in township twenty south, range nine east, (reference being had to the said Willamette meridian and base line,) containing eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-seventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Diamond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 27, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 3534, for the W. ½ N. W. ¼ of sec. 28, and the N. E. ¼ N. E. ¼ of sec. 30, T. 22 N., R. 8 E., W. M., Seattle, Washington, in lieu of lands in sec. 36, T. 20 S., R. 9 E., W. M., Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

8. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond, and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying

in the Vancouver land district, in the State of Washington,
41 which, when surveyed, would be known and described as the south half of section two, in township seven north, range six east, (reference being had to the Willamette meridian and base line,) containing three hundred and twenty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the south half of section sixteen, in township twenty-one south, range nine east, (reference being had to the said Willamette meridian and base line,) containing three hundred and twenty acres, the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DECEMBER 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke in the matter of forest reserve lieu selection No. 1590, under act of June 4, 1897, for certain land in sec. 2, T. 7 N., R. 6 E., W. M., Washington, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

9. And the grand jurors aforesaid, upon their oath aforesaid, do, further present, that the said Frederick A. Hyde, John A. Benson

Henry P. Dimond, and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment,

42 at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as section ten, in township seven north, range six east, (reference being had to the Willamette meridian and base line,) containing six hundred and forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as section thirty-six, in township twenty-two south, range six east, (reference being had to the said Willamette meridian and base line), containing six hundred and forty acres, the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DEC. 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke in the matter of forest reserve lieu selection No. 1591, under act of June 4, 1897, for certain land in sec. 10, T. 7 N., R. 6 E., W. M., Washington, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

43 he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

10. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as section twelve, in township seven

north, range six east, (reference being had to the Willamette meridian and base line,) containing six hundred and forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as section sixteen, in township twenty-two south, range seven east, (reference being had to the said Wil-
44 lamette meridian and base line,) containing six hundred and forty acres, the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DEC. 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke in the matter of forest reserve lieu selection No. 1592, under act of June 4, 1897, for certain land in sec. 12, T. 7 N., R. 6 E., W. M., Washington, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

11. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at

Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to a certain tract of the public lands aforesaid, that is to say, the lands,
45 then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as section thirteen, in township seven north, range six east, (reference being had to the Willamette meridian and base line,) containing six hundred and forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as section sixteen, in township twenty-two south, range nine east, (reference being had to the said Willamette meridian and base line,) containing six hundred and forty acres, the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DEC. 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke in the matter of forest reserve lieu selection No. 1594, under act of June 4, 1897, certain land in sec. 13, T. 7 N., R. 6 E., W. M., Washington, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

12. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond, and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count unlawfully did conspire, combine, confederate and agree together,
46 and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, — the States of California and Oregon, by obtaining, from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the La Grande land district, in the said State of Oregon, known and described as lot number four of the southeast quarter of the southwest

quarter of section twenty-nine, in township nine south, range thirty-seven east, (reference being had to the Willamette meridian and base line,) then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as a quantity of land in the northwest quarter of southwest quarter of section sixteen, in township twenty-one south, of range 7 east, (reference being had to the said Willamette meridian and base line,) the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DECEMBER 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 1213, for lot 4 of sec. 29, T. 9 S., R. 37 E., La Grande, Oregon, in lieu of land in sec. 16, T. 21 S., R. 7 E., W. M., Oregon, and respectfully ask the immediate approval or rejection of said selection on the present record, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

47 and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the thirteenth day of March, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." MARCH 13, 1902.

Commissioner of the General Land Office.

SIR: On Dec. 30, 1901, I had the honor to file my appearance in behalf of C. W. Clarke in the matter of his forest lieu selection *No. 1213*, under act of June 4, 1897, (30 Stat., 36) and coupled with said appearance a request that early and definite action be had on the record.

I now respectfully call your attention to the fact that nearly three months has elapsed and no action had and earnestly request that said selection be the subject of early examination with a view to approval or rejection on the present record.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the third day of March, in the year of our Lord nineteen hundred and three, and during the period mentioned in the said first count of this indictment, unlawfully did transmit, by mail of the said United States, from the city of San Francisco, in the said State of California, to the then Commissioner of the said General Land Office, at Washington aforesaid, in the said District of Columbia, a certain other letter, that is to say, a letter of the tenor following:

Codes:
Western Union
Anglo-American

Cable address:
"Contax."

Henry P. Dimond, attorney at law, 415 Montgomery St., San Francisco.

"R." MARCH 3, 1903.

Hon. W. A. Richards, Commissioner of the General Land Office, Washington, D. C.

SIR: I desire, in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 1213 for lot 4 of the S. E. ¼ of S. W. ¼ of sec. 29, T. 9 S., R. 37 E., W. M., in lieu of 30 acres in the N. W. ¼ of S. W. ¼ of sec. 16, T. 21 S., R. 7 E., W. M., to call your attention

to the fact that said selection has been on file in your
48 office since November, 1899, and earnestly request that the same may be made the subject of early examination on the record as it now stands, and that prompt action be had thereon.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond then and there, to wit, at the several times and at the places of so presenting and transmitting the several letters in this count of this indictment mentioned, to the said Commissioners of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented and transmitted in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

13. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Douglas land district, in the State of Wyoming, known and described as the southwest quarter of the southwest quarter of section twenty-eight, in township thirty-five north, range eighty west, (reference being had to the sixth principal meridian and base line,) containing forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the

said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately
49 before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the southeast quarter of the southeast quarter of section sixteen, in township twenty south, range eight east, (reference being had to the Willamette meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Diamond, attorney at law, Glover building, 1409 F stree N. W., Washington, D. C.

"R." DEC. 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 2129, for the S. W. ¼ S. W. ¼ of sec. 28, T. 35 N., R. 80 W., Douglas, Wyoming, in lieu of the S. E. ¼ S. E. ¼ of sec. 16, T. 20 S., R. 8 E., Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the third day of March, in the year of our Lord nineteen hundred and three, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to then the Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Diamond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

MARCH 3, 1903.

Hon. W. A. Richards, Commissioner of the General Land Office, Washington, D. C.

SIR: I desire, in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 2129 for the S. W. ¼ of S. W. ¼ of sec. 28, T. 35 N., R. 80 W., 6th P. M. in lieu of the S. E. ¼ of S. E. ¼ of sec. 16, T. 20 S., R. 8 E., W. M., to call your attention to the fact that said selection has been on file in your office since March, 1901, and ask that the same be made the subject of an early examination with a view to approval.

Very respectfully,

HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioners of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

14. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States

out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Wausau land district, in the State of Wisconsin, which, when surveyed, would be known and described as the northwest quarter of the southeast quarter of section thirteen, in township thirty-six north, range eight east, (reference being had to the fourth principal meridian and base line,) containing forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the southwest quarter of the southwest quarter of section sixteen, in township twelve south, range nine east, (reference being had to the Willamette meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to
51 the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 2849, for the N. W. ¼ S. E. ¼ of sec. 13, T. 36 N., R. 8 E., Wausau, Wisconsin, in lieu of the S. W. ¼ S. W. ¼ of sec. 16, T. 12 S., R. 9 E., Oregon City, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the

said United States, and contrary to the form of the statute of the same in such case made and provided.

15. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-third day of July, in the year of our Lord nineteen hundred and three, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain tracts of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as the south half of the southeast quarter, the southwest quarter,
and the south half of the northwest quarter, of section
52 one, the south half of section two, all of sections ten, twelve and thirteen, and the northwest quarter, and the southwest quarter of the northeast quarter, of section fourteen, in township seven north, range six east, (reference being had to the Willamette meridian and base line,) containing in all twenty-seven hundred and sixty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the southwest quarter of the northeast quarter, and the southeast quarter of the northeast quarter, of section sixteen, the south half of the southeast quarter, and the southeast quarter of the southwest quarter, of section

thirty-six, in township twenty south, range seven east, the south half of section sixteen, in township twenty-one south, range nine east, section thirty-six, in township twenty-two south, range six east, section sixteen, in township twenty-two south, range seven east, section sixteen, the southeast quarter of the northeast quarter, the east half of the southeast quarter, the southwest quarter of the southeast quarter, and the northwest quarter, of section thirty-six, in township twenty-two south, range nine east, (reference being had to the said Willamette meridian and base line,) containing in all twenty-seven hundred and sixty acres, the said Frederick A. Hyde, afterwards, to wit, on the twenty-ninth day of July, in the year of our Lord nineteen hundred and three, and during the said period, unlawfully did cause to be transmitted, by mail of the said United States, from the United States land office at Vancouver, in the said State of Washington, to the then Commissioner of the General Land Office of the said United States, at Washington aforesaid, in the said District of Columbia, a certain document, to wit, a document of the tenor following:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
WASHINGTON, D. C.

C. W. CLARKE
vs.
NORTHERN PACIFIC RAILROAD Company.

Involving Forest Lieu Selection No. 1153 and Selections Amendatory Thereof.

Hon. Commissioner General Land Office, Washington, D. C.

SIR: Please take notice that C. W. Clarke does hereby appeal to the Hon. Secretary of the Interior from your decision found in letter "F" of Mar. 21, 1903, in which you hold for cancellation forest lieu selection 1153, and the selections amendatory thereof.

Statement of Errors.

First. It was error to hold that the list of selections, No. 89, filed by the Northern Pacific Railroad Company on the 4th of
53 Nov. 1899, antidated forest lieu selection No. 1153 by C. W. Clarke, the fact being that said selection No. 1153 was filed in the United States land office at Vancouver, Washington, on the 23rd of Oct. 1899 and was, therefore, prior in point of time to the railroad selection. (See letter of register and receiver of Jan. 5, 1900, transmitting supplemental applications of C. W. Clarke.)

Second. On the 12th of Aug. 1902, C. W. Clarke filed in the land office at Vancouver a re-adjustment after survey, of his selection No. 1153 which readjustment was a re-affirmation of his selection and amounted to a re-selection of the land after survey. No attention was paid in the decision hereby appealed from to said re-designa-

tion and re-application which omission is alleged as a second error in said decision.

Third. As only a portion of selection No. 1153 was in conflict with the railroad selection, it was error to cancel the entire selection No. 1153 because of such conflict.

Clarke having, therefore, filed the first application and the first re-adjustment after survey, he is entitled to the land in contest as against the Northern Pacific Railroad Company. (See Secretary's decision in this case of Jan. 21, 1903 and cases therein cited.)

Respectfully, F. A. HYDE,
Attorney for Clarke.

he, the said Frederick A. Hyde, when so causing the said document to be transmitted to the said Commissioner of the said General Land Office as aforesaid, well knowing the contents of the same, and well knowing that the same pertained to, and was so transmitted in pursuance and to effect the object of, the unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

16. And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established under the laws of the said United States in that behalf in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands, then unsurveyed,
54 lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as the north half of the northeast quarter of section fourteen, in township seven north, range six east, (reference being had to the

Willamette meridian and base line,) containing eighty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the northeast quarter of the northeast quarter, and the northwest quarter of the northwest quarter, of section sixteen, in township twenty south, range nine east, (reference being had to the said Willamette meridian and base line,) containing eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DEC. 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke in the matter of forest reserve lieu selection No 1593, under act of June 4, 1897, for certain land in sec. 14, T. 7 N. R. 6 E., W. M., Washington, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

17. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond, and Joost H. Schneider, on the twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and

during the period mentioned in the first count of this indict-
55 ment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established under the laws of the said United States in that behalf in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain tracts of the public lands aforesaid, that is to say, the lands lying in the Pueblo land district, in the State of Colorado, known and described as lot number two of section three, in township twenty-seven south, range fifty-nine west, and the northwest quarter of the southeast quarter of section twenty-two, in township twenty-six south, range fifty-nine west, (reference being had to the sixth principal meridian and base line,) containing seventy-nine and forty-eight one-hundredths acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the east half of the northwest quarter of section sixteen, in township thirty-one south, range two east, (reference being had to the Willamette meridian and base line,) containing eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selec-
56 tion No. 1609, for lands in sec. 3, T. 27 S., R. 59 W., and 22, T. 26 S., R. 59 W., Pueblo, Colorado, in lieu of lands in section 16, T. 31 S., R. 2 E., W. M., Roseburg, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

18. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain tracts of the public lands aforesaid, that is to say, the lands lying in the Visalia land district, in the said State of California, known and described

as the southeast quarter and the northwest quarter of section eleven, the northwest quarter of section fifteen, the northeast quarter of the northeast quarter, the southwest quarter of the northeast quarter, the northeast quarter of the southeast quarter, the southwest quarter of the southeast quarter, the southwest quarter of the southwest quarter, the northeast quarter of the southwest quarter, the southwest quarter of the northwest quarter, and the northeast quarter of the northwest quarter, of section nine, and the southwest quarter of the southeast quarter, and the southwest quarter of the southwest quarter, of section seventeen, all in township sixteen south, range twelve east, (reference being had to the Mount Diablo meridian and base line,) containing in all eight hundred and eighty acres, then
57 lately before selected, in the name of one A. S. Baldwin, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and dscribed as the east half of the northeast quarter, and the southwest quarter, of section thirty-six, in township one south, range ten east, and section thirty-six, in township two south, range ten east, (reference being had to the Willamette meridian and base line,) containing in all eight hundred and eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DECEMBER 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of A. S. Baldwin, in the matter of his forest reserve lieu selection No. 1103, for lands in secs. 9, 11, 15 and 17, T. 16 S., R. 12 E., M. D. M., Visalia, Cal., in lieu of lands in secs. 36, T. 1 S., R. 10 E., and 36, T. 2 S., R. 10 E., W. M., Oregon City, Oregon, and request the usual notice of action.

Very respectfully,

HENRY P. DIMOND,
Attorney for A. S. Baldwin.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the twentieth day of January, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." JANUARY 20, 1902.

Hon. Binger Hermann, Commissioner of the General Land Office.

SIR: In the matter of forest reserve lieu selection No. 1103, A. S. Baldwin, for S. E. / 4 and N. W. / 4 sec. 11, N. W. / 4 sec. 15,
58 N. E. / 4 of N. E. / 4 S. W. / 4 of N. E. / 4, N. E. / 4 of S. E. / 4, S. W. / 4 of S. W. / 4, N. E. / 4 of S. W. / 4, S. W. / 4 of N. W. / 4, N. W. / 4, N. E. / 4 of N. W. / 4 sec. 9, S. W. / 4 of S. E. / 4, S. W. / 4 of S. W. / 4 sec. 17. 16 S. 12 E. M. D. M. in lieu of E. / 2 of N. E. / 4 and S. W. / 4 of sec. 36, T. 1 S. R. —, all of sec. 361, T. 2 S. 10 E. W. M. Oregon City dist. Ore.

I respectfully urge that this selection be the subject of early consideration on the record as it now stands in your office, and that prompt action be had thereon with a view to approval.

Very respectfully, HENRY P. DIMOND,
Attorney for A. S. Baldwin.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

19. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia

under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jury aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Visalia land district, in the said State of California, known and described as the west half of the southeast quarter of section two, in township thirty-one south, range twenty-two east, (reference being had to the Mount Diablo meridian and base line,) containing eighty acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A.
59 Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the southwest quarter of the northwest quarter, and forty acres of lot number three, of section sixteen, in township twenty-four south, range four east, (reference being had to the Willamette meridian and base line,) containing eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 2086, for the W. ½ S. E. ¼ of sec. 2, T. 31 S., R. 22 E., M. D. M., Visalia, Cal., in lieu of lands in sec. 16, T. 24 S., R. 4 E., Oregon City, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the eleventh day of September, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, unlawfully did transmit by mail of the said United States, from the city of San Francisco, in the said State of California, to the said Commissioner of the said General Land Office, at Washington aforesaid, in the said District of Columbia, a certain other letter, that is to say, a letter of the tenor following:

Codes:
Western Union
Anglo-American

Cable address:
"Contax."

Henry P. Dimond, attorney at law, 415 Montgomery St., San Francisco.

SEPT. 11, 1902.

Hon. Binger Hermann, Commissioner General Land Office, Washington, D. C.

SIR: I have the honor to transmit herewith, in behalf of F. A. Hyde in the matter of his forest reserve selection No. 2086, W. ½ S. E. ¼ sec. 2, T. 31 S., R. 22 E., M. D. M., in lieu of S. W. ¼ N. W. ¼ and 40 acres of lot 3 (excess used) sec. 16, T. 24 S., R. 4 E.,
60 W. M., Cascade Range forest reserve, and in compliance with the requirements of your letter "R" of July 22, 1902, certificates from the county tax collector and county clerk that there are no taxes due or unpaid and no suits pending of judgments docketed that would in any way affect the title to the above described

base land; also a certified copy of the original deed from F. A. Hyde & wife to the United States embracing therein the land above mentioned, and would ask that the selection be the subject of early examination with a view to approval.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

Enc.

he the said Henry P. Dimond then and there, to wit, at the several times and places of so presenting and transmitting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented and transmitted in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

20. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-seventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the San Francisco land district, in the said State of California, known and described as the southeast quarter of the southwest quarter of section thirty-five, in township thirty-two south, range nineteen east, (reference being had to the Mount Diablo meridian and base line,) containing forty acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F.

A. Hyde,) by and on behalf of the said Frederick A. Hyde and
61 John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the southeast quarter of the northwest quarter of section sixteen, in township thirty-five south, range six east, (reference being had to the Willamette meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-seventh day of December, in the year of our Lord nineteen hundred and one, and during the same period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 27, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest lieu selection No. 1000, for the S. E. ¼ S. W. ¼ of sec. 35, T. 32 S., R. 19 E., M. D. M., San Francisco, California, in lieu of the S. E. ¼ N. W. ¼ of sec. 16, T. 35 S., R. 6 E., W. M., Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

21. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-fourth day of October, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indict-

ment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, estab-
62 lished and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Visalia land district, in the said State of California, known and described as the northeast quarter of section twenty-six, in township nineteen south, range fifteen east, (reference being had to the Mount Diablo meridian and base line,) containing one hundred and sixty acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the northeast quarter of section sixteen, in township thirty-one south, range two east, (reference being had to the Willamette meridian and base line,) containing one hundred and sixty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-fourth day of October, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, 1419 F St. N. W., Washington, D. C.

OCT. 24, 1901.

To the Hon. Herman Binger, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of forest lieu selection No. 960, for the N. E. / 4 of sec. 26, T. 19 S., R. 15 E., M. D. M., Visalia, Cal., in lieu of N. E. / 4 of sec. 16, T. 31 S., R. 2 E., W. M., Oregon, and respectfully ask that this selection be the subject of early consideration, requesting the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to
63 appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the sixteenth day of January, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." JANUARY 16, 1902.

To the Hon. Binger Hermam, Commissioner of the General Land Office.

SIR: Under date of October 30 1901, I had the honor to address a letter to you filing my appearance in beha-f of F. A. Hyde, in the matter of forest selection No. 960, for the N. E. / 4 of sec. 26, T. 19 S., R. 15 E., M. D. M., Visalia, Cal., in lieu of N. E. / 4 of sec. 16, T. 31 S. R. 2 E., W. M., Oregon, and reqnesting that said selection be the subject of early consideration.

Said appearance and letter was on the 31st day of October 1901 duly acknowledged by your office with the statement that "the matter would receive prompt attention," but since that date I have received no further notice of action.

I now, therefore again respectfully urge that said selection be the subject of early consideration on the record thereof, as it now

stands in your office, and that action therein be had, with a view to approval.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond then and there, to wit, at the several times and places of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

22. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States
64 in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Sacramento land district, in the said State of California, known and described as the southeast quarter of the northwest quarter, and the southwest quarter of the northeast quarter, of section thirty, in township twelve north, range fourteen east, (reference being had to the Mount Diablo meridian and base line,) containing eighty acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said

Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the northwest quarter of the southeast quarter of section sixteen, in township thirty-one south, range two east, and the southwest quarter of the southwest quarter of section sixteen, in township twenty-three south, range eight east, (reference being had to the Willamette meridian and base line,) containing eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 4060, for lands in section 30, T. 12 N., R. 14 E., M. D. M., Sacramento, California, in lieu of lands in section 16, T. 31 S., R. 2 E., and sec. 16, T. 23 S., R. 8 E., W. M. Roseburg and Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and
65 to appropriate, and defraud the said United States out of the possession and use of and the title to the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the thirty-first day of March, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"N."

MARCH 31, 1902.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to file herewith in behalf of F. A. Hyde in the matter of his forest lieu selection No. 4060, act of June 4, 1897 (30 Stat., 36), authority to post notices on land dated April 18, 1901.

Said filing is made in compliance with requirement of letter "N" of March 3, 1902 and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Frederick A. Hyde, afterwards, to wit, on the said thirty-first day of March, in the same year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did cause to be presented to the said Commissioner of the said General Land Office, by the hand of the said Henry P. Dimond, a certain document, that is to say, a document of the tenor following:

Whereas, the undersigned, F. A. Hyde, whose post office address is San Francisco, Cal. has made application to select under the provisions of the act of June 4, 1897, (30 Stats., 36), in the U. S. land office at Sacramento, Cal., the following described tract: S. E. ¼ of N. W. ¼ and S. W. ¼ of N. E. ¼ sec. 30, T. 12 N., R. 14 E. M. D. M.

And whereas, it is provided by circular "P," dated January 29, 1900, of the honorable Commissioner of the General Land Office, that a notice of such selection be posted on the ground described in the application, and the proof of such posting be filed in the U. S. land office for the district in which the land is situated.

Now, therefore, S. E. Kieffer is hereby duly authorized and appointed as my agent to post notices on the ground described in my said application, and to make affidavit of that fact, and also of the fact that said notices remain posted during the period of publication.

F. A. HYDE.

San Francisco, California, April 18th, 1901.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this
66 indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out

of the possession and use of and the title to the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said thirty-first day of March, in the same year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain document, that is to say, the same document in this count last above set forth according to its tenor,—they the said Henry P. Dimond and Frederick A. Hyde then and there, to wit, at the several times and places of so presenting and causing to be presented the several letters and the document in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, respectively well knowing the contents of each of the same letters, and of the said document, and well knowing that the same respectively pertained to, and were so presented and caused to be presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

23. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public land of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain tracts of the public lands aforesaid, that is to say, the lands lying in the Visalia land district, in the said State of California, known and described as the east half, the south half of the southwest quarter, and the north half of the northwest quarter, of section ten, in township nineteen south, range fifteen east, (reference being had to the Mount Diablo meridian and base line,) containing in all four hundred and

67 eighty acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the east half and the southwest quarter of section sixteen, in township twenty-three south, range seven east, (reference being had to the Willamette meridian and base line,) containing four hundred and eighty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DECEMBER 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 964, for lands in section 10, T. 19 S., R. 15 E., M. D. M. Visalia, California, in lieu of lands in sec. 16, T. 23 S., R. 7 E., Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the twentieth day of January, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." JANUARY 20, 1902.

To the Hon. Binger Hermann, Commissioner of the General Land Office.

SIR: In the matter of the forest reserve lieu selection No. 964 of F. A. Hyde, for E. ½ S. ½ of S. W. ¼ and N. ½ of N. W. ¼
68 sec. 10, T. 19 S. R. 15 E., M. D. M., in lieu of E. ½ and S. W. ¼ sec. 16, T. 23 S. R. 7 E. W. M. Lakeview dist. Ore.

I respectfully urge that this selection be the subject of early consideration on the record as it now stands in your office, and that prompt action be had thereon with a view to approval.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same, in such case made and provided.

24. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-seventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly, and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agree-

ment, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of public lands aforesaid, that is to say, the lands lying in the Stockton land district, in the said State of California, known and described as lot nine of section nineteen, and all of that portion of the northeast quarter of the northeast quarter outside of certain mining claims on the southern portion thereof, of section thirty, in township one south, range sixteen east, (reference being had to the Mount Diablo meridian and base line,) containing forty acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said
69 fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the southwest quarter of the northeast quarter of section thirty-six, in township twenty-three south, range eight east, (reference being had to the Willamette meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-seventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DECEMBER 27, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 751, for lands in section 30, T. 1 S., R. 16 E., M. D. M., Stockton, California, in lieu of the S. W. ¼ N. E. ¼ of sec. 36, T. 23 S., R. 8 E., W. M., Lakeview, Oregon, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this co unt of this indict ment mentioned, and to effect the object of the sa me, and to appro

priate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the fifteenth day of March, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"N." MARCH 15, 1902.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor in behalf of F. A. Hyde, in the matter of his forest lieu selection No. 751, under act June 4, 1897, (30 Stats., 36), to respectfully ask why no further action with a view to the approval of said selection has been had, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

70 he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

25. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States

of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Visalia land district, in the said State of California, known and described as the northeast quarter of the southeast quarter of section twenty-two, in township nineteen south, range fifteen east, (reference being had to the Mount Diablo meridian and base line,) containing forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of Oregon, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Cascade Range forest reserve, in the said State of Oregon, and known and described as the southwest quarter of the northeast quarter
71 of section sixteen, in township seventeen south, range nine east, (reference being had to the Willamette meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the year of our Lord nineteen hundred and one, and during the said period, unlawfully did present to the then Commissioner of the General Land Office of the said United States, at Washington aforesaid, in the said District of Columbia, a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DECEMBER 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 1263, for the N. E. ¼ S. E. ¼ of sec. 22, T. 19 S., R. 15 E., M. D. M., Visalia district, California, in lieu of the S. W. ¼ N. E. ¼ of sec. 16, T. 17 S., R. 9 E., Roseburg, Oregon, and request the usual notice of action.

Very respectfully,

HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, when so presenting the said letter to the said Commissioner of the said General Land Office well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

26. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond, and Joost H. Schneider, on the twenty-seventh day of December, in the year of our Lord, nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such pos-
72 session, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain tracts of the public lands aforesaid, that is to say, a tract of land, then unsurveyed, lying in the Stockton land district, in the said State of California, which, when surveyed, would be known and described as the west half of the southeast quarter of section five, in township one south, range sixteen east, (reference being had to the Mount Diablo meridian and base line,) containing eighty acres; a tract of land, then unsurveyed, lying in the said Stockton land district, in the said State of California, which, when surveyed, would be known and described as the north half of the southeast quarter, the southeast quarter of the southeast quarter, and the southeast quarter of the northeast quarter, of section twenty-five, in township two north, range sixteen east, (reference being had to the said Mount Diablo meridian and base line,) containing one hundred and sixty acres; a tract lying in the San Francisco land district, in the said State of California, known and described as the southeast quarter of the southwest quarter of section thirty-five, in township twenty-nine south, range fourteen east, (reference being had to the said Mount Diablo meridian and base line,) containing forty acres;

a tract lying in the said San Francisco land district, in the said State of California, known and described as the southwest quarter of the southeast quarter of section twenty-six, in township twenty-five south, range ten east, (reference being had to the said Mount Diablo meridian and base line,) containing forty acres; a tract of land, then unsurveyed, lying in the Waterville land district, in the State of Washington, which, when surveyed, would be known and described as the fractional northeast quarter of the southwest quarter of section one, in township thirty-eight north, range twenty-five east, (reference being had to the Willamette meridian and base line,) containing twenty-three and fifty-three one-hundredths acres, being all of the said northeast quarter of the southwest quarter of the said section not included within mineral surveys numbered 183, 189 and 190; a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described as the fractional northeast quarter of the northwest quarter of section one, in township thirty-eight north, range twenty-five east, (reference being had to the said Willamette meridian and base line,) containing twenty-five and seventy-eight one-hundredths acres, being all of the said northeast quarter of the northwest quarter of the said section not included within the Colville Indian reservation; a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described as the northwest quarter of the southeast quarter of section one, in township thirty-eight north, range twenty-five east, (reference being had to
73 the said Willamette meridian and base line,) containing forty acres; a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described as the fractional southwest quarter of the northwest quarter of section six, in township thirty-eight north, range twenty-six east, (reference being had to the said Willamette meridian and base line,) containing thirteen and forty-nine one-hundredths acres, being all of the said southwest quarter of the northwest quarter of the said section lying south and southeast of the mining claims designated as the "Rustler quartz claim" and the "Missing Link quartz claim;" a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described as the fractional southeast quarter of the northeast quarter of section one, in township thirty-eight north, range twenty-five east, (reference being had to the said Willamette meridian and base line,) containing thirty-eight and ninety-three one hundredths acres, being all of the said southeast quarter of the northeast quarter of the said section except the portion covered by the "Rustler quartz mining claim;" a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described, as the northwest

quarter of the southwest quarter of section six, in township thirty-eight north, range twenty-six east, (reference being had to the said Willamette meridian and base line,) containing forty acres; a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described as the fractional southeast quarter of the northwest quarter of section one, in township thirty-eight north, range twenty-five east, (reference being had to the said Willamette meridian and base line,) containing twenty-seven and fifty-three one-hundredths acres, being all of the said southeast quarter of the northwest quarter of the said section not included within mineral surveys numbered 181, 182 and 183; a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described as the northeast quarter of the southeast quarter of section one, in township thirty-eight north, range twenty-five east, (reference being had to the said Willamette meridian and base line,) containing forty acres; and a tract of land, then unsurveyed, lying in the said Waterville land district, in the said State of Washington, which, when surveyed, would be known and described as the fractional southwest quarter of the northeast quarter of section one, in township thirty-eight north, range twenty-five east, (reference being had to the said Willamette meridian and base line,) containing thirty-four and thirty-five one-hundredths acres, being all of the said southwest quarter of the northeast quarter of the said section not included within the mining claim designated as the "Chicago quartz claim;"—all of which said tracts were then lately before selected, in the name of Elizabeth
74 Dimond, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the fraudulent practice in the said first count mentioned, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of California, in the said name of Elizabeth Dimond, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Sierra forest reserve, in the said State of California, and known and described as section sixteen, in township twenty-eight south, range thirty-four east, (reference being had to the said Mount Diablo meridian and base line,) containing six hundred and forty acres,—the said Henry P. Dimond, afterwards, to wit, on the said twenty-seventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 27, 1901.

Hon. Binger Herman, Commissioner of the General Land Office:

SIR: I have the honor to *hereby enter my* appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 460, for the W. ½ S. E. ¼ of sec. 5, T. 1 S., R. 16 E., M. D. M., Stockton, Cal., in lieu of W. ½ N. W. ¼ of sec. 16, T. 28 S., R. 34 E., M. D. M., Independence district, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-seventh day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 27, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu
75 selection No. 483, for lands in sec. 25, T. 2 N., R. 16 E., M. D. M., Stockton, California, in lieu of the S. W. ¼ of sec. 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the

said twenty-seventh day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 27, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 705, for the S. E. ¼ S. W. ¼ of sec. 35, T. 29 S., R. 14 E., M. D. M., San Francisco, California, in lieu of the S. E. ¼ N. W. ¼ of sec. 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-seventh day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DECEMBER 27, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve
76 lieu selection No. 705½, for the S. W. ¼ S. E. ¼ of sec. 26, T. 25 S., R. 10 E., M. D. M., San Francisco, California, in lieu of the N. E. ¼ N. W. ¼ of sec. 16, T. 28 S., R. 34 E., M. D. M., Independence land district, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 1034, for the N. E. ¼ S. W. ¼ of sec. 1, T. 38 N., R. 25 E., Waterville, Washington, in lieu of land in section 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully,

HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington, aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selec-

tion No. 1035, for the N. E. ¼ N. W. ¼ of sec. 1, T. 38 N., R. 25
77 E., Waterville, Washington, in lieu of land in section 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 1036, for the N. W. ¼ S. E. ¼ of sec. 1, T. 38 N., R. 25 E., Waterville, Washington, in lieu of land in section 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 1037, for the S. W. ¼ N. W. ¼ of sec. 6, T. 38 N., R. 26 E., Waterville, Washington, in lieu of land in sec. 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully,

HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

78 and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu section No. 1038, for the S. E. ¼ N. E. ¼ of sec. 1, T. 38 N., R. 25 E., W. M., Waterville, Wash., in lieu of land in sec. 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully,

HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on

the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 1039, for the N. W. ¼ S. W. ¼ of sec. 6, T. 38 N., R. 26 E., Waterville, Washington, in lieu of the 40 acres in N. E. ¼ of sec. 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of
79 this indictment mentioned, and to effect the objection of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the first said count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 1040, for the S. E. ¼ N. W. ¼ of sec. 1, T. 38 N., R. 25 E., Waterville, Washington, in lieu of land in section 16, T. 28 S., R. 34 E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 1041, for the N. E. ¼ S. E. ¼ of sec. 1, tp. 38 N., R. 25 E., Waterville, Washington, in lieu of land in section 16, T. 28 S., R. 34 E., M. D. M., Independence, Cal., and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count
80 described, the said Henry P. Dimond, afterwards, to wit, on the said twenty-eighth day of December, in the same year of our Lord nineteen hundred and one, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 28, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Elizabeth Dimond, in the matter of her forest reserve lieu selection No. 1042, for the S. W. ¼ N. E. ¼ of sec. 1, T. 38 N., R. 25 E.

Waterville, Washington, in lieu of land in section 16, T. 28 S., R. 34, E., M. D. M., Independence, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the sixth day of February, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." FEBRUARY 6, 1902.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby acknowledge receipt of notice of approval (letter "R" of January 18, 1902) in the matter of forest reserve lieu selection No. 1039 of Elizabeth Dimond, and in view of said approval I respectfully ask that said selection be sent to patent at earliest possible date and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Elizabeth Dimond.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and
81 agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

27. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia,

under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain of the tracts of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as the south half of the northwest quarter, and the northwest quarter of the northwest quarter, of section eighteen, the west half, the west half of the northeast quarter, and the west half of the southeast quarter, of section nineteen, the south half of section twenty-nine, the northeast quarter, the north half of the southeast quarter, the southeast quarter of the southeast quarter, the east half of the northwest quarter, and the northwest quarter of the northwest quarter, of section thirty-one, the southeast quarter of the northeast quarter, the west half of the northeast quarter, the southeast quarter of the northwest quarter, the northeast quarter of the southwest quarter, the south half of the southwest quarter, and the west half of the southeast quarter, of section thirty-two, all in township six north, range five east, (reference being had to the Willamette meridian and base line,) containing in all sixteen hundred and eighty acres, then lately before selected, in the name of F. A. Hyde & Co., on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of California, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then
82 lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Pine Mountain and Zaca Lake forest reserve, in the said State of California, and known and described as the south half, the northwest quarter, and the west half of the northeast quarter, of section sixteen, in township five north, range twenty-two west, and the west half of the northeast quarter of section thirty-six, in township six north, range nineteen west, and the north half of section sixteen,

in township seven north, range twenty-two west, and the northeast quarter, and the northeast quarter of the northwest quarter, of section thirty-six, in township eight north, range twenty-four west, and the north half of the southeast quarter, the southwest quarter of the southeast quarter, and the southwest quarter, of section sixteen, in township three north, range four west, and the northeast quarter and the west half of the southeast quarter of section thirty-six, in township seven north, range twenty-three west, (reference being had to the San Bernardino meridian and base line,) containing in all six teen hundred and eighty acres, excepting that the lands described as lying in township three north, range four west, lay in the San Bernardino forest reserve, in the said State of California,—the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DEC. 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde & Co., in the matter of forest reserve lieu selection No. 3571, under act of June 4, 1897, to select certain land in secs. 18, 19, 29, 31 and 32 T. 6 N., R. 5 E., W. M., Washington, and request the usual notice of action.

Very respectfully,

HENRY P. DIMOND,
Attorney for F. A. Hyde & Co.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the seventh day of April, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

83 Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

APRIL 7, 1902.

Hon. Binger Hermann, Commissioner of the General Land Office.

SIR: In compliance with letter "R" of February 19, 1902, I have the honor to file herewith, in behalf of F. A. Hyde & Co., in the matter of forest lieu selection No. 3571, under act of June 4, 1897 (30 Stat., 36), full abstracts of title as to the base lands and certificates of county clerks as to liens so far as it is possible to obtain the same.

It will be noted that the county clerk at Ventura, California, declined to give his certificate or make an examination, and I file herewith his official letter of March 18, 1902, stating that the giving of such certificate is not a part of his duty, and the writer knows of no law in California by which a county clerk (clerk of court) can be compelled so to do.

I have, therefore, obtained and likewise filed herewith the certificate of the abstract company and the affidavit of its manager, that there are no judgments against any of the parties in interest.

I desire also to call your attention to the fact that in some of the abstracts there are a number of mining claims noted, but the record shows they were all claims filed after the land went to the State, and are the result of the general oil craze.

These mining locations were put all over the county and have generally been abandoned since then.

Believing that the filing of above completes the record in said selection No. 3571, I respectfully ask an early examination with a view to the prompt approval thereof, and request the usual notice of action.

Very respectfully,

HENRY P. DIMOND,
Att'y for F. A. Hyde & Co.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the ninth day of April, in the same year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." APRIL 9, 1902.

Hon. Binger Hermann, Commissioner of the General Land Office.

SIR: In the matter of forest lieu selection No. 3571, of F. A. Hyde & Co., one Fred W. Lake attorney, on or about December 18, 1901, filed a formal protest, as to sec. 36, T. 6 N., R. 19 W., S. B. M. the same being in part the base lands used in said selection 3571.

By letter "R" of February 1902 said Lake was called upon for certain proofs and allowed thirty days in which to furnish same.

Inasmuch as said thirty days have elapsed and said proofs have not been filed, I respectfully ask that the protest of said Lake be forthwith dismissed so far as it applies to said selection 3571, and sec. 36, T. 6 N., R. 19 W., S. B. M., and the same having been
84 made "special" I earnestly request that prompt action be had with a view to approval.

Very truly,

HENRY P. DIMOND,
Attorney for F. A. Hyde & Co.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

28. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count,

and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain of the tracts of public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Eureka land district, in the State of California, which, when surveyed, would be known and described as the south half of the south half, and the northeast quarter of the northwest quarter, of section twenty-four, the west half of the east half, and the southeast quarter of the southeast quarter, of section twenty-three, in township four south, range one east, (reference being had to the Humboldt meridian and base line,) containing in all four hundred acres, then lately before selected, in the name of the said Frederick A. Hyde, (under the designation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of
85 California, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Sierra forest reserve, in the said State of California, and known and described as the northeast quarter, and the north half of the southeast quarter, of section sixteen, in township fourteen south, range thirty-one east, and the southeast quarter of section sixteen, in township eighteen south range thirty-two east, (reference being had to the Mount Diablo meridian and base line,) containing in all four hundred acres, the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R."

DEC. 30, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 2061, for lands in secs. 23 & 24, T. 4 S., R. 1 E., H. M., Eureka, California, in lieu of lands in secs. 16, T. 14 S., R. 31 E., and 16, T. 18

S., R. 32 E., M. D. M., Visalia, California, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the twenty-fourth day of December, in the year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, unlawfully did transmit by mail of the said United States, from the city of San Francisco, in the said State of California, to the said Commissioner of the said General Land Office, at Washington aforesaid, in the said District of Columbia, a certain other letter, to wit, a letter of the tenor following:

Codes:
Western Union
Anglo-American

Cable address:
"Contax."

Henry P. Dimond, attorney at law, 415 Montgomery St., San Francisco.

"R." DECEMBER 24, 1902.

Hon. Binger Hermann, Commissioner General Land Office, Washington, D. C.

SIR: I have the honor to file herewith in the matter of the forest lieu selection of F. A. Hyde, No. 2061, S. ½ S. ½, N. E. ¼ N. W. ¼
86 sec. 24, W. ½ E. ½, S. E. ¼ S. E. ¼ sec. 23, T. 4 S., R. 1 E., H. M., in lieu of N. E. ¼, N. ½ S. E. ¼ sec. 16, T. 14 S., R. 31 E., and S. E. ¼ sec. 16, T. 18 S., R. 32 E., M. D. M., and in compliance with the requirements of your letter "R" of December 1, 1902, certificate of the county clerk of Tulare county, that there are no judgments, liens or pending suits of record that in any way affect title to the base land above described.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

he the said Henry P. Dimond then and there, to wit, at the several times and at the places of so presenting and transmitting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and

to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

29. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the sixteenth day of January, in the year of our Lord nineteen hundred and two, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States, out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain tracts of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as the northeast quarter of section twenty, the north half of section thirty, and the south half of the southwest quarter of section sixteen, in township eight north, range three east, (reference being had to the Willamette meridian and base line,) containing five hundred and sixty acres, then lately before selected in the name of the said Frederick A. Hyde, (under the desig-
87 nation of F. A. Hyde,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of California, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Sierra forest reserve, in the said State of California, and known and described as the east half, the southwest quarter, and the east half of the northwest quarter, of section thirty-six, in township twenty-five south, range thirty-three east, (reference being had to the Mount Diablo meridian and base line,) containing

five hundred and sixty acres, the said Henry P. Dimond, afterwards, to wit, on the said sixteenth day of January, in the year of our Lord nineteen hundred and two, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." JANUARY 16, 1902.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde, in the matter of his forest reserve lieu selection No. 2885, for N. E. /4 of sec. 20, N. /2 of sec. 30, S. /2 of S. W. /4 of sec. 16, T. 8 N., R. 3 E., W. M., 56 acres, in lieu of E. /2 of S. W. /4 and E. /2 of N. W. /4 of sec. 36, T. 25 S., R. 33 E., M. D. M. respectfully urging that said selection be the subject of prompt consideration with a view to early approval. And request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Frederick A. Hyde, afterwards, to wit, on the tenth day of April, in the year of our Lord nineteen hundred and three, and during the period mentioned in the said first count of this indictment, unlawfully did cause to be transmitted, by mail of the said United States, from the United States land office at Vancouver, in the said State of Washington, to the then Commissioner of the said General Land Office, at Washington aforesaid, in the said District of Columbia, a certain document, to wit, a document of the tenor following:

88 Partial abandonment of forest reserve selection No. 2885.

SAN FRANCISCO, CAL., *March* 31, 1903.

Register and receiver, United States land office, Vancouver, Wash.

SIRS: Whereas, on the 19th of February, 1900, the undersigned filed in your office under the act of June 4th, 1897, forest reserve lieu land selection number 2885, for the unsurveyed N. E. ¼ sec. 20; N. ½ of sec. 30, and S. ½ of S. W. ¼ of sec. 16, T. 8 N., R. 3 E., W. M., in lieu of the E. ½, S. W. ¼, and E. ½ of N. W. ¼ of sec. 36, T. 25 S., R. 33 E., M. D. M., Sierra forest reserve, California, and

Whereas, it has been decided by the Department of the Interior, that the unsurveyed sixteenth and thirty-sixth sections in the State of Washington are not subject to such selections.

Now therefore, I, F. A. Hyde of San Francisco, California, in conformity with the aforesaid departmental decision do hereby abandon and relinquish the said south half of the southwest quarter of section sixteen (16), of said selection number 2885, in lieu of the east half of the north-west quarter of section thirty-six (36), township twenty-five (25) south, range thirty-three (33) east, Mount Diablo meridian, and request that the said selection to the extent of the aforesaid eighty (80) acres, be canceled on the records and files of your office.

Witness my hand this 31st day of March, 1903.

F. A. HYDE.

STATE OF CALIFORNIA,)
City and County of San Francisco,) ss:

On the 31st day of March in the year one thousand nine hundred and three (1903) before me, Thomas S. Burnes, a notary public in and for said city and county, residing therein, duly commissioned and sworn, personally appeared F. A. Hyde, known to me to be the person described in, whose name is subscribed to and who executed the annexed instrument and he acknowledged to me that he executed the same.

In witness whereof, I have hereunto set my hand and affixed my official seal, at my office, in the city and county of San Francisco, the day and year last above written.

THOMAS S. BURNES,
Notary Public in and for the City and County of San Francisco, State of California.

(which said document then bore the impression of the notarial seal of the notary therein named, which it is not convenient to here reproduce;) they the said Henry P. Dimond and Frederick A. Hyde, then and there, to wit, at the several times and at the places of so presenting the said letter and causing the said document to be transmitted to the said Commissioner of the said General Land Office, as in this count of this indictment set forth, well knowing the contents of the same letter and document respectively, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

30. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirty-first day of December, in the year of our Lord nineteen hundred and

89 one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of public lands aforesaid, that is to say, the lands lying in the Carson City land district, in the State of Nevada, known and described as the northwest quarter of the southeast quarter of section seventeen, in township thirty-nine north, range fifty-three east, (reference being had to the Mount Diablo meridian and base line,) containing forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of California, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the San Jacinto forest reserve, in the said State of California, and known and described as the northwest quarter of the northwest quarter of section sixteen, in township ten south, range eight east, (reference being had to the San Bernardino meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirty-first day of December, in the year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 31, 1901.

Hon. Binger Herman, Commissioner of the General Land Office,

SIR: I have the honor to hereby enter my appearance in
90 behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 4586, for the N. W. ¼ S. E. ¼ of sec. 17, T. 39 N., R. 53 E., M. D. M., Carson City, Nev. in lieu of the N. W. ¼ N. W. ¼ of sec. 16, T. 10 S., R. 8 E., S. B. M., Los Angeles, Cal. and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

31. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirty-first day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of public lands aforesaid, that is to say, the lands lying in

the Carson City land district, in the State of Nevada, known and described as the northwest quarter of the northwest quarter of section twenty, in township thirty-nine north, range fifty-three east, (reference being had to the Mount Diablo meridian and base line,) containing forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of California,
91 in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the San Jacinto forest reserve, in the said State of California, and known and described as the southwest quarter of the northwest quarter of section sixteen, in township ten south, range eight east, (reference being had to the San Bernardino meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirty-first day of December, in the same year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." DEC. 31, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 4588, for the N. W. ¼ N. W. ¼ of sec. 20, T. 39 N., R. 53 E., M. D. M., Carson City, Nev. in lieu of the S. W. ¼ N. W. ¼ of sec. 16, T. 10 S., R. 8 E., S. B. M., Los Angeles, Cal. and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

32. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eleventh day of December, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under
92 the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use, and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to defraud the said United States out of the possession and use of and the title to certain tracts of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as the west half of the southwest quarter of section three, all of section four, the east half, and the east half of the southwest quarter, of section five, the east half, and the east half of the southwest quarter, of section eight, the northeast quarter of the northeast quarter, the west half of the northeast quarter, the west half, and the northwest quarter of the southeast quarter, of section nine, the southwest quarter of the northwest quarter, the southwest quarter, and the southwest quarter of the southeast quarter, of section fifteen, the west half of section sixteen, the northeast quarter, the south half of the northwest quarter, the north half of the southwest quarter, the southeast quarter of the southwest quarter, the north half of the southeast quarter, and the southeast quarter of the southeast quarter, of section seventeen, the east half of the northeast quarter, the southwest quarter of the northeast quarter, and the northeast quarter of the southeast quarter, of section twenty, and the north half, the north half of the southwest quarter, and the north half of the southeast quarter, of section twenty-one, all in township eight north, range six east, (reference being had to the Willamette meridian and base line,) containing in all three thousand and six hundred and eighty acres, then lately before selected, in the name of one Isaac Liebes, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained by the

said Frederick A. Hyde and John A. Benson, from the said State of California, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and known and described as the east half, the northwest quarter, and the southwest quarter of the southwest quarter, of section sixteen, township five north, range twenty east, and the northeast quarter of the northeast quarter, the southwest quarter of the northeast quarter, and the northwest quarter of the southwest quarter, of section sixteen, in township seventeen south, range thirty-three east, (reference being had to the Mount Diablo meridian and base line,) the east half, the east half of the northwest quarter, the northwest quarter of the northwest quarter, and the southwest quarter, of section sixteen, in township four north, range fourteen west, the east half of the northwest quarter, the northwest quarter of the northwest quarter, and the northest quarter of the south-
93 west quarter, of section sixteen, in township four north, range fifteen west, the north half of section thirty-six, in township five north, range fourteen west, all of sections sixteen and thirty-six, in township five north, range fifteen west, and the west half of section sixteen and the west half of section thirty-six, in township five north, range sixteen west, (reference being had to the San Bernardino meridian and base line,) containing in all three thousand and six hundred and eighty acres, and then lying within the limits of certain forest reserves then lately before established under the laws of the said United States,—that is to say, the lands described as being in the said township five north, range twenty east, (reference being had to the Mount Diablo meridian and base line,) lying within the Stanislaus forest reserve, in the said State of California, the lands described as being in the said township seventeen south, range thirty-three east, (reference being had to the said Mount Diablo meridian and base line,) lying within the Sierra forest reserve, in the said State of California, and the lands described with reference to the said San Bernardino meridian and base line lying within the Pine Mountain and Zaca Lake forest reserve, in the said State of California,—the said Henry P. Dimond, afterwards, to wit, on the said eleventh day of December, in the same year of our Lord nineteen hundred and one, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

DEC. 11, 1901.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to hereby enter my appearance in behalf of Isaac Liebes in the matter of forest reserve lieu selection No.

3030, under act of June 4, 1897, for certain land in sections 4, 5, 8, 9, 15, 16, 17, 20 and 21, T. 8 N., R. 6 E., W. M., Washington, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for Isaac Liebes.

he the said Henry P. Dimond, then and there, to wit, at the time and place when and where he so as aforesaid presented the said letter to the said Commissioner of the said General Land Office, well knowing the contents of the same letter, and well knowing that the same pertained to, and was so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

33. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eighth day of December, in the year — our Lord nineteen hundred
94 and two, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, a certain tract of the public lands aforesaid, that is to say, the lands lying in the Pueblo land district, in the State of Colorado, known and described as the southwest quarter of the northwest quarter of section thirty-three, in township twenty-six south, range fifty-six west, (reference being had to the sixth principal meridian and base line,) containing forty acres, then lately before selected, in the name of one Crawford W. Clarke, (under the designation of C. W. Clarke,) by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of California, in pursuance of the same fraud-

ulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Pine Mountain and Zaca Lake forest reserve, in the said State of California, and known and described as the southeast quarter of the southwest quarter of section thirty-six, in township six north, range twenty-three west, (reference being had to the San Bernardino meridian and base line,) containing forty acres, the said Henry P. Dimond, afterwards, to wit, on the said eighth day of December, in the same year of our Lord nineteen hundred and two, and during the said period, unlawfully did transmit by mail of the said United States, from the city of San Francisco, in the said State of California, to the then Commissioner of the General Land Office of the said United States, at Washington aforesaid, in the said District of Columbia, a certain other letter, to wit, a letter of the tenor following:

95

Codes:
Western Union
Anglo-American

Cable address:
"Contax"

Henry P. Dimond, attorney at law, 415 Montgomery St., San Francisco.

R. DECEMBER 8, 1902.

Honorable Binger Hermann, Commissioner General Land Office, Washington, D. C.

SIR: I have the honor to file herewith, in the matter of the forest lieu selection of C. W. Clarke No. 2428, S. W. ¼ N. W. ¼ sec. 33, T. 26 S., R. 56 W., 6th P. M., and in compliance with your letter "R" of October 1st, 1902, the affidavit of A. T. Haines as to the non-mineral and non-saline character and non-occupancy of the land selected, and would respectfully request that the selection be made the subject of early examination with a view to approval.

Very respectfully, HENRY P. DIMOND,
Attorney for C. W. Clarke.

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and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tract of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the sixth day of March, in the year of our Lord nineteen hundred and three, and during the said period, unlawfully did transmit by mail of the said United States, from the said city of San Francisco, in the said State of California, to the then Commissioner of the said General

Land Office, at Washington aforesaid, in the said District of Columbia, a certain other letter, to wit, a letter of the tenor following:

Codes:
Western Union
Anglo-American

Cable address:
"Contax"

Henry P. Dimond, attorney at law, 415 Montgomery St., San Francisco.

"R."

MARCH 6, 1903.

Hon. W. A. Richards, Commissioner of the General Land Office, Washington, D. C.

SIR: I desire, in behalf of C. W. Clarke, in the matter of his forest reserve lieu selection No. 2428 for the S. W. ¼ of N. W. ¼ of sec. 33, T. 26 S. R. 56 W. 6th P. M. in lieu of S. E. ¼ of S. W. ¼ of sec. 36, T. 6 N. R. 23 W., S. B. M. to call your attention to the fact that said selection has been on file in your office since May, 1900, and ask that the same be made the subject of an early examination with a view to approval.

Very respectfully,

HENRY P. DIMOND,
Attorney for C. W. Clarke.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so transmitting the several letters in this count of this indictment mentioned, to the said Commissioners of the said General Land Office, well knowing the contents of each of the same letters, and well knowing that the same respectively
96 pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

34. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the thirtieth day of January, in the year of our Lord nineteen hundred and two, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws

of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, certain tracts of the public lands aforesaid, that is to say, the lands, then unsurveyed, lying in the Vancouver land district, in the State of Washington, which, when surveyed, would be known and described as the north half, the north half of the southeast quarter, and the north half of the southwest quarter, of section twenty, the northeast quarter, and the northwest quarter, of section thirty, in township eleven north, range five east, and the west half of section thirty-two, in township eleven north, range four east, (reference being had to the Willamette meridian and base line,) containing eleven hundred and twenty acres, then lately before selected, in the name of F. A. Hyde & Co., by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, in lieu of certain school lands before then obtained, by the said Frederick A. Hyde and John A. Benson, from the said State of California, in pursuance of the same fraudulent practice, and in the manner and by the means in the said first count set forth, and then lying within the limits of a certain forest reserve then lately before established under the laws of the said United States, to wit, the Pine Mountain and Zaca Lake forest reserve, in the said State of California, and known and described as section sixteen and the west half, and the southeast quarter, of section thirty-six, in township nine north, range
97 twenty-eight west, (reference being had to the San Bernardino meridian and base line,) containing eleven hundred and twenty acres, the said Henry P. Dimond, afterwards, to wit, on the said thirtieth day of January, in the year of our Lord nineteen hundred and two, and during the said period, at Washington, aforesaid, in the said District of Columbia, unlawfully did present to the then Commissioner of the General Land Office of the said United States a certain letter, to wit, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." JANUARY 30, 1902.

Hon. Binger Hermann, Commissioner of the General Land Office

SIR: I have the honor to hereby enter my appearance in behalf of F. A. Hyde & Company, in the matter of their forest reserve lieu selection No. 3029, for lands in secs. 20 & 30, T. 11 N., R. 5 E., and 32, T. 11 N., R. 4 E., W. M., Vancouver, Washington, in lieu of

lands in sections 16 and 36, T. 9 N., R. 28 W., S. B. M., California, Pine M't'n & Zaca Lake forest reserve, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde & Company.

and that, further in pursuance of the said unlawful conspiracy, combination, confederation and agreement in this count of this indictment mentioned, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the tracts of public lands in this count described, the said Henry P. Dimond, afterwards, to wit, on the nineteenth day of March, in the same year of our Lord nineteen hundred and two, and during the period mentioned in the said first count of this indictment, at Washington aforesaid, in the said District of Columbia, unlawfully did present to the said Commissioner of the said General Land Office a certain other letter, that is to say, a letter of the tenor following:

Henry P. Dimond, attorney at law, Glover building, 1419 F street N. W., Washington, D. C.

"R." MARCH 19, 1902.

Hon. Binger Herman, Commissioner of the General Land Office.

SIR: I have the honor to file herewith in behalf of F. A. Hyde & Co., in the matter of its forest lieu selection *No. 3029*, act of June 4, 1897, (30 Stats., 36), the following papers, to wit: *appointment of agent to post notices on land, waiver of cost of publication, supplemental affidavit (non-mineral, non-occupancy and non-saline)*, of A. S. Moore, covering period from March 29, 1900, to March 3, 1902, and request the usual notice of action.

Very respectfully, HENRY P. DIMOND,
Attorney for F. A. Hyde & Co.

he the said Henry P. Dimond then and there, to wit, at the several times and at the place of so presenting the several letters in this count of this indictment mentioned, to the said Commissioner of the said General Land Office, well knowing the contents of
98 each of the same letters, and well knowing that the same respectively pertained to, and were so presented in pursuance and to effect the object of, the said unlawful conspiracy, combination, confederation and agreement: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

35. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-eighth day of May, in the year of our Lord nineteen hundred and two, and

during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, to wit, on the said twenty-eighth day of May, in the same year of our Lord nineteen hundred and two, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did pay to the said Woodford D. Harlan men-
99 tioned in the said first count a large sum of money, to-wit, the sum of fifty dollars, in lawful moneys of the said United States, of kinds and denominations to the said grand jurors unknown: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

36. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A Benson, Henry P. Dimond and Joost H. Schneider, on the fifteenth day of

June, in the year of our Lord nineteen hundred and two, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand juries aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected, at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, to wit, on the said fifteenth day of June, in the same year of our Lord nineteen hundred and two, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did pay to the said Woodford D. Harlan mentioned in the said first count a large
100 sum of money, to wit, the sum of one hundred dollars, in lawful moneys of the said United States, of kinds and denominations to the said grand jurors unknown: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

37. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the fifteenth day of March, in the year of our Lord nineteen hundred and three, and

during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected, at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, to wit, on the said fifteenth day of March, in the same year of our Lord nineteen hundred and three, and during the said period, at and within the said District of Columbia, unlawfully did pay to the said Woodford D. Harlan mentioned in the
101 said first count a large sum of money, to wit, the sum of two hundred dollars, in lawful moneys of the said United States, of kinds and denominations to the said grand jurors unknown: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

38. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twentieth day of March, in the year of our Lord nineteen hundred and three, and during the period mentioned in the first count of this indictment,

at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected, at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, to wit, on the said twentieth day of March, in the same year of our Lord nineteen hundred and three, and during the said period, at and within the said District of Columbia, unlawfully did pay to the said Woodford D. Harlan mentioned in the said first count a large sum of
102 money, to wit, the sum of two hundred dollars, in lawful moneys of the said United States, of kinds and denominations to the said grand jurors unknown: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

39. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-fifth day of March, in the year of our Lord nineteen hundred and three, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the

circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected, at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, to wit, on the said twenty-fifth day of March, in the same year of our Lord nineteen hundred and three, and during the said period, at and within the said District of Columbia, unlawfully did pay to the said Woodford D. Harlan mentioned in the said first count a large sum of money,
103 to wit, the sum of one hundred dollars, in lawful moneys of the said United States, of kinds and denominations to the said grand jurors unknown: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

40. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the eighteenth day of December, in the year of our Lord nineteen hundred and three, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, un-

lawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected, at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, to wit, on the said eighteenth day of December, in the same year of our Lord nineteen hundred and three, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did pay to the said Woodford D. Harlan mentioned in the said first count a large sum of money, to wit, the sum of two hundred dollars, in the form of four gold certificates of the denomination and value of fifty dollars each, lawful money of the said United States: Against
104 the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

41. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the twenty-fourth day of October, in the year of our Lord nineteen hundred and one, and during the period mentioned in the first count of this indictment, at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first

count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected, at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, on divers days and at divers times during the said period to the said grand jurors unknown, unlawfully did give and pay to the said William E. Valk mentioned in the said first count, by sending the same by mail of the said United States from the city of San Francisco, in the State of California, directed to the said William E. Valk at Laurel, in the State of Maryland, divers sums of
105 lawful money of the said United States, of kinds, denominations and amounts respectively to the said grand jurors unknown, aggregating a large sum, to wit, the sum of fifteen hundred dollars: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

42. And the grand jurors aforesaid, upon their oath aforesaid, do further present, that the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, on the sixteenth day of December, in the year of our Lord nineteen hundred and three, and during the period mentioned in the first count of this indictment,

at Washington aforesaid, in the said District of Columbia, under the circumstances and conditions set forth in the said first count, unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the grand jurors aforesaid unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of and the title to divers large tracts of the public lands of the said United States open and to be open to selection in lieu of lands included and to be included within the limits of forest reserves, established and to be established, under the laws of the said United States in that behalf, in the States of California and Oregon, by obtaining from the said United States, by means of the false and fraudulent practice described in the said first count, and appropriating, for the profit, gain, use and benefit of themselves, as in the said first count set forth, such possession, use and title; and that, in pursuance of the said unlawful conspiracy, combination, confederation and agreement, and to effect the object of the same, and to appropriate, and defraud the said United States out of the possession and use of and the title to, the several tracts of public lands mentioned and described in the several counts of this indictment from the first to the thirty-fourth count, both inclusive, which had been and were to be selected, at the times respectively mentioned in those counts, in the divers names and under the divers designations in the said several counts mentioned, by and on behalf of the said Frederick A. Hyde and John A. Benson, in pursuance of the said fraudulent practice, as in the said counts set forth, in lieu of the school lands respectively mentioned and described in the same counts as being lands obtained, by the said Frederick A. Hyde and John A. Benson, from the said States of California and Oregon, in pursuance of the same fraudulent practice, in the manner and by the means in the said counts set forth, and respectively lying within the limits of the respective forest reserves in those counts mentioned, established, under the laws of the said United States in that behalf, in the States of California and Oregon, as in the said several counts set forth, the said John A. Benson, afterwards, to wit, on the said sixteenth day of December, in the same year of our Lord nineteen hundred and three, and during the said period, at Washington aforesaid, in the said District of Columbia, unlawfully did pay to the said William E. Valk mentioned in the said first count a
106 large sum of money, to wit, the sum of one hundred dollars, in the form of four twenty-dollar gold certificates, one ten-dollar silver certificate and one ten-dollar United States note, lawful moneys of the said United States, a further description whereof is to the said grand jurors unknown: Against the peace and dignity of the said United States, and contrary to the form of the statute of the same in such case made and provided.

Attorney of the United States for the District of Columbia.

107 [Endorsed:] No. —. In the supreme court of the District of Columbia. The United States of America *v.* Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider. Indictment on section 5440, R. S., U. S. (Conspiracy to defraud the United States.) A true bill, —— ——, foreman. Witnesses: Walter K. Slack, Marion L. Doyle, Charles A. Johnson, Belle A. Curtis, J. Knox Corbett, Woodford D. Harlan, William E. Valk, William J. Burns, D. Alexander, John McPhaul, Benjamin F. Allen, Grant I. Taggart. Filed in open court this — day of February, A. D. 1904. —— ——, clerk.

108 (Endorsed:) No. 13652. United States circuit court ninth circuit northern district of California. In the matter of Frederick A. Hyde on *habeas corpus*. Petition for writ of *habeas corpus*. Filed September 2, 1904, Southard Hoffman, clerk, by W. B. Beaizley, deputy clerk.

109 At a stated term, to wit: the July term A. D. 1904, of the circuit court of the United States of America, of the ninth judicial circuit, in and for the northern district of California, held at the court room in the city and county of San Francisco, on Saturday the 3rd day of September in the year of our Lord one thousand nine hundred and four.

Present: The Honorable William W. Morrow, circuit judge.

In the Matter of the Application of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari. No. 13652.

Order of Court Denying Writs of Habeas Corpus and Certiorari and Allowing Appeal, etc.

Comes now into open court the petitioner Frederick A. Hyde with Bert Schlesinger and Garret W. McEnerney Esqs., his attorneys, and moves *ex parte*, through his said attorneys, for an order directing the issuance of writs of *habeas corpus* and certiorari as prayed in his petition on file herein. Francis J. Heney, Esq., special assistant attorney general, A. B. Pugh, Esq., special assistant attorney general, and Marshall B. Woodworth, Esq., United States attorney for this district, appeared upon behalf of the United States of America, opposing said application, and after argument by counsel for the respective parties said application was submitted to the court for consideration and decision.

And the said application for writs of *habeas corpus* and certiorari having been fully considered, and the oral opinion of the court having been delivered, it is, in accordance with said opinion, ordered, that said application be and hereby is denied, and that the petition herein be and hereby is dismissed.

110 Thereupon the said Frederick A. Hyde, by and through his said attorneys, gave notice in open court of an appeal to the Supreme Court of the United States, from the foregoing order,

and in that behalf presented to the court his petition for an order allowing such appeal, together with an assignment of the errors to be urged by him upon said appeal.

Thereupon it is ordered that said petitioner be and he hereby is allowed to prosecute an appeal to the Supreme Court of the United States, from the foregoing order denying his said application for writs of *habeas corpus* and certiorari; that the amount of the bond for costs to be executed and filed by petitioner upon his said appeal, be and hereby is fixed at the sum of three hundred dollars; that upon the approval and filing of such bond, a citation in due form issue herein, and that a certified transcript of the record and proceedings herein be forthwith transmitted to the Supreme Court of the United States.

Thereupon the attorneys for said petitioner moved the court for an order admitting him to bail pending the determination of his said appeal, and, on consideration thereof, it is by the court ordered, that the said petitioner Frederick A. Hyde, be admitted to bail pending the determination of his said appeal in the sum of ten thousand dollars; and that upon his executing and filing a bond in said sum with two good and sufficient sureties, to be approved by the clerk of this court, he be released from custody.

111 In the Circuit Court of the United States, Ninth Circuit, Northern District of California—Hon. W. W. Morrow, Judge.

In the Matter of the Application of F. A. HYDE and HENRY P. DIMOND for Writs of *Habeas Corpus* and Certiorari. Nos. 13652, 13653.

Opinion.

SATURDAY, *September* 3, 1904.

Appearances.

F. J. Heney, Esq., special assistant attorney-general; Arthur B. Pugh, Esq., and Oliver E. Pagin, Esq., special assistant U. S. attorneys; Marshall B. Woodworth, Esq., U. S. attorney; for the United States.

G. W. McEnerney, Esq., and Bert Schlesinger, Esq., for defendant F. A. Hyde.

Samuel Knight, Esq., for defendant Henry P. Dimond.

The COURT (orally): Two applications have been presented to the court, one on behalf of F. A. Hyde, and the other on behalf of Henry P. Dimond, for writs of *habeas corpus*.

The petitioners allege that they are held by the United States marshal under color of authority of the United States by virtue of warrants of removal issued under section 1014 of the Revised Statutes of

the United States, the warrants of removal being dated Septem-
112 ber 2, 1904, signed by the Hon. J. J. De Haven, judge of the district court of the United States for the northern district of California, and that they have been committed and are detained only by virtue of said warrants and not otherwise, and not by virtue of any judgment, decree, or final order of any court or judge thereof.

Section 1014 of the Revised Statutes of the United States provides as follows: "For any crime or offense against the United States, the offender may, by any justice or judge of the United States, or by any commissioner of a circuit court to take bail, * * * be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States as by law has cognizance of the offense. * * * And where any offender is committed in any district other than that where the offense is to be tried, it shall be the duty of the judge of the district where such offender * * * is imprisoned, seasonably to issue, and of the marshal to execute, a warrant for his removal to the district where the trial is to be had."

It appears that the petitioners were indicted by the grand jury of the supreme court of the District of Columbia, in which indictment they are charged with having conspired with others to defraud the United States out of the possession and use of, and the title to, divers large tracts of public land of the United States open and to be opened to selection under the laws of the United States in that behalf, in lieu of lands included and to be included within the limits of certain forest reserves established and to be established by the United States in the States of California and Oregon.

The indictment is based upon section 5440 of the Revised Statutes of the United States, which provides that "If two or more
113 persons conspire, either to commit any offense against the United States or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, all the parties to such conspiracy shall be liable to a penalty of not more than ten thousand dollars, and to imprisonment for not more than two years, or both fine and imprisonment, in the discretion of the court."

The petitioners are residents of this district. The indictment was accordingly sent to this district, and the petitioners were arrested here and brought before the commissioner of this district, examined with respect to the charges contained in the indictment, and were held by the commissioner to answer the charges.

Upon application to the district judge for a warrant, the district judge reviewed the proceedings before the commissioner, and determined that they should be held under the indictment, and issued his warrant for removal. The matter is now brought to the attention of this court by petition for writ of *habeas corpus*, and the court is urged to issue writs of *habeas corpus* upon the ground that there is a debatable question in this case as to whether these petitioners should be held upon this indictment and removed to the District of Columbia for trial.

I have determined that I will consider the merits of the case upon this application for writs of *habeas corpus*. I believe I am justified in this action upon the authority of decisions of the Supreme Court of the United States approving such a course.

In the case of *Ex parte* Milligan, 71 U. S. 2, I find upon
114 page 110 the following, with reference to the procedure upon petition for writ of *habeas corpus*: "It is true that it is usual for a court, on application for a writ of *habeas corpus*, to issue the writ, and, on the return, to dispose of the case; but the court can elect to waive the issuing of the writ and consider whether, upon the facts presented in the petition, the prisoner, if brought before it, could be discharged. One of the very points on which the case of Tobias Watkins, reported in 3 Peters, turned, was, whether, if the writ was issued, the petitioner would be remanded upon the case which he had made. The Chief Justice, in delivering the opinion of the court, said: 'The cause of imprisonment is shown as fully by the petitioner as it could appear on the return of the writ; consequently the writ ought not to be awarded if the court is satisfied that the prisoner would be remanded to prison.'"

That opinion was followed in the case of *Ex parte* Royall, reported in 117 U. S. 241. The part of the opinion of the court to which I refer is on page 250. The court, speaking of the proceeding in that case, said: "It remains, however, to be considered, whether the refusal of that court to issue the writ and to take the accused from the custody of the State officer can be sustained upon any other ground than the one upon which it proceeded. If it can be, the judgment will not be reversed because an insufficient reason may have been assigned for the dismissal of the petitions. Undoubtedly the writ should be forthwith awarded, 'unless it appears from the petition itself that the party is not entitled thereto;' and the case summarily heard and determined 'as law and justice require.' Such are the express requirements of the statute. If, however, it is apparent
115 upon the petition that the writ if issued ought not, on principles of law and justice, to result in the immediate discharge of the accused from custody, the court is not bound to award it as soon as the application is made." Citing a number of cases.

These cases have been followed in a number of other cases that have come before the courts of the United States, so that it is clearly within the province of the court to inquire preliminarily, upon the allegations of the petition, whether it shall issue the writs of *habeas corpus* or not.

The objections to the warrant of removal and to the petitioners being held upon the indictment in this case are based upon the charges contained in the indictment, and not upon any matter outside of that document. It is therefore competent for the court to examine into this case upon the merits, upon this application.

What is the scope of such an examination? That is the first question the court is called upon to determine. This is an application to review the action of the Commissioner in holding the de-

fendants to answer to this indictment. It is also a petition to review the action of the district judge in issuing the warrant of removal. Both proceedings are claimed to be erroneous, because, first, the indictment fails to charge the petitioner with the commission of any crime or offense against the laws of the United States, or any frauds against the United States; and, second, the supreme court of the District of Columbia is without jurisdiction to try the offense, or any offense said to be set up in the indictment.

In the case of Horner *v.* United States, 143 U. S. 207, this very question of the scope of the inquiry upon writ of *habeas corpus* involving removal was considered by the court. It was there
116 sought by writ of *habeas corpus* to test the sufficiency of the indictment upon which the petitioner was held under the lottery act for sending circulars through the mails for the sale of certain Austrian bonds, which were charged to be nothing but a scheme for a lottery. The question made on the petition for the writ of *habeas corpus* was that the bonds were not a lottery, within the meaning of the Federal statute. The Supreme Court held that the question whether the scheme was a lottery was a question to be determined by the commissioner, by the grand jury, and by the district or circuit court in which the indictment was to be tried, and that it was not for the circuit court or for the Supreme Court, on the writ of *habeas corpus*, to determine this question in advance.

This case was referred to in another case, brought before Circuit Judge Taft of the Ohio circuit, that of *In re* Rickelt, reported in 61 Federal, 203. Judge Taft follows the case of Horner *v.* United States, and decided that a writ of *habeas corpus* would not lie to determine the question of law, whether the facts proved before a United States commissioner on a preliminary hearing are sufficient to constitute the crime for which the prisoner has been committed. In this connection the court said: "The only question which it is sought to make here on behalf of the petitioner is that the facts developed before the commissioner were not evidence sufficient to constitute the offense described in section 3892. That is a mere question of law, the decision of which is in the first instance committed by section 1014 of the Revised Statutes to the jurisdiction of the United States commissioner before whom the preliminary examination is had. * * * The writ of *habeas corpus* cannot be used as a writ of error to review the action of the United States commissioner within his jurisdiction. If it were a question
117 whether the crime charged had been committed in the district to which the removal was about to be made—that is, whether the crime charged was within the jurisdiction of the courts of that district—this would be a proper proceeding to test it. If it were a question whether the act under which the prosecution is being conducted was constitutional, that, too, might be tested by *habeas corpus* proceedings. Not so, however, the simple question whether the facts alleged and proven are in law sufficient to constitute the crime described in the statute. That is a question for the

consideration of the regular tribunals before whom it may be raised in the due procedure of preliminary examination, indictment, and trial. The writ of *habeas corpus* is a collateral proceeding, and its scope is limited, as above stated."

Applying these decisions to the cases now before the court, we find that the scope of the inquiry upon these applications is limited; that the question as to whether or not the indictment sufficiently charges an offense under the laws of the United States is not to be reviewed as a case would be reviewed upon a writ of error. The sufficiency of the indictment has been considered by the commissioner and by the district judge, and may again be considered by the trial court; but it is not, in any technical sense, a subject for review upon this proceeding. I am of the opinion, however, that if the indictment does not charge any offense whatever under the laws of the United States (which is the allegation of this petition), it is the duty of the court to determine that question; and to that extent the charge contained in the indictment should be examined. Of course, the authorities hold that it is within the jurisdiction of the court, upon writ of *habeas corpus*, to determine whether
118 the court that found the indictment and to which the prisoner is about to be removed has jurisdiction of the case. This court is required to review that question, and that upon well-settled grounds of jurisprudence. It is within the province of the court of the State where the accused is arrested to determine whether or not the court to which he is being removed has jurisdiction of the offense charged in the indictment.

I have considered very carefully the question whether or not the District of Columbia has jurisdiction of this case, and I consider the law settled. I am satisfied that it has such jurisdiction, and that that claim of the petitioners cannot be considered as entitling them to be discharged from arrest.

The question which has been presented and discussed this morning with great earnestness is, whether or not this indictment charges the petitioners with any crime against the United States. The indictment is not drawn in language that charges the offense described in the statute in such terms as would be called good pleading under ordinary circumstances. The charging part of the indictment is not in very clear or concise language, but it is contended that it is based on certain statutes of the United States, and refers to certain proceedings under the laws of the United States which render it necessary to make the charge of the offense in such language as is used in this indictment. Notwithstanding this explanation, it does appear that the indictment is open to criticism. But the question for this court to determine is, whether or not it appears that the petitioners are charged, in general substance, in this indictment, with an offense under the laws of the United States; whether or not this indictment, under any construction of its language, may be held to charge an offense under the laws of the United States.
119 If it does, the petitioners cannot be discharged from arrest

upon writs of *habeas corpus*, for the reason, as said before, that this is not a court of appeals.

The objection to the indictment is that it charges these petitioners with having conspired together to obtain title to certain lands from the State of California or Oregon in the name of fictitious persons, and that the titles obtained from the State were to have been used in obtaining, by exchange under the forest reserve act, titles from the United States for lands which the United States holds and owns.

It is said that that is not an offense against the United States; that if these petitioners have conspired to secure titles from the State, and under the statutes of the United States they were entitled to exchange those titles, however fraudulently obtained, for lands belonging to the United States, the exchange does not amount to a fraud under section 5440 of the Revised Statutes of the United States.

Judge Lacombe, of the circuit court of New York, has taken this view of this indictment, and has held that this does not constitute an offense. Judge Lacombe is an able judge, of recognized experience and ability in every branch of the Federal jurisdiction. It is the duty of this court to give consideration to a decision from such an eminent source, but at the same time the duty still remains for this court to pass upon the question as an independent proposition. It is the duty of this court to determine for itself as to whether the charge in this indictment substantially states an offense against the United States. Judge De Haven, of this district, has rendered an opinion upon a review of the proceedings on the application for a warrant of removal, and has reached the conclusion that,
120 while the language of the indictment is open to criticism nevertheless, in his opinion, it does charge an offense.' His decision appears to have been reached after careful consideration, and I have great respect for his judgment in the case. But this does not relieve me from the duty of reaching an independent judgment of my own.

The charging part of the indictment material to be considered upon this inquiry, is as follows: "That the said Frederick A. Hyde, John A. Benson, Henry P. Dimond and Joost H. Schneider, * * * unlawfully did conspire, combine, confederate and agree together, and with divers other persons to the said grand jurors unknown, knowingly, wickedly and corruptly to defraud the said United States out of the possession and use of, and the title to, divers large tracts of the public lands of the said United States, * * * in pursuance and by means of a false and fraudulent practice whereby the said Frederick A. Hyde and John A. Benson were to obtain fraudulently from the said States of California and Oregon title to and possession of school lands lying within the limits of such forest reserves and open to purchase from those States; * * * which said school lands were to be so obtained from the said States by making and filing with the said authorities *applications for the purchase of*

the same, and assignments of the same, and of the certificates of purchase thereof, *in the names of fictitious persons*, * * * and by supporting such applications with forged and fraudulent affidavits and affidavits false, and known to the said Frederick A. Hyde and John A. Benson to be false, in this, that they would purport to be, some the affidavits of real persons, and *others the bona fide sworn affidavits of the persons whose names were signed* thereto,
121 whereas in truth and in fact the former would be the affidavits of fictitious persons and would not be the affidavits of real persons or affidavits sworn to by any person, and the latter would not be the *bona fide* or sworn affidavits of the persons whose names were signed thereto, because such latter affidavits would not only state that the affiants therein were persons qualified under the laws of the said State of California, or of the said State of Oregon, as the case might be, to make such applications and to purchase such lands, by reason, amongst other things, of their intending to purchase the same in good faith and for their own benefit respectively, and of their having made no contract or agreement to sell the same, while in truth and in fact none of such real persons would intend to purchase such lands in good faith for his own use or benefit at all, but would be either knowingly aiding and assisting the said Frederick A. Hyde and John A. Benson in their said fraudulent practice or innocently acting upon their said false representations, but because, also, the said latter affidavits would not in truth and in fact have ever been sworn to at all by any of the persons whose names were signed thereto; and whereby the said Frederick A. Hyde and John A. Benson were to cause to be relinquished, assigned, transferred and conveyed, by means of false and forged relinquishments, assignments and conveyances, to the said United States, * * * the pretended rights of such fictitious persons respectively, and require and procure such real persons to make relinquishments, assignments, transfers and conveyances, either directly, or indirectly through the said Frederick A. Hyde, or through the said agents and attorneys of the said Frederick A. Hyde and John A. Benson, * * * of the titles to and possession of such school lands * * * in exchange as aforesaid for public lands to be selected, and for titles thereto
122 by patent to be obtained, by and on behalf of the said Frederick A. Hyde and John A. Benson in the names of such fictitious or real persons, * * * in lieu of such school lands lying within the limits of such forest reserves as aforesaid, * * * well knowing such titles to such school lands to be, as they were and would be, false, fraudulent, fictitious, void and worthless, and the possession acquired thereunder unlawful, and intending thereby, and by afterwards selling and disposing of such public lands and patent-titles to the general public, to defraud the said United States out of the possession and use of, and of the title to, the public lands so to be selected, obtained and appropriated in lieu of such school

lands as aforesaid, to the profit, gain, use, and benefit of themselves as aforesaid."

This charge, reduced to a simple term, is, that the accused conspired together to obtain from the United States under the forest reserve act patents to lands belonging to the United States in exchange for and in lieu of school lands lying within the limits of such forest reserve, the title to which the accused had obtained or were to obtain fraudulently from the State by means of applications for the purchase of the same in the names of fictitious persons.

By the act of March 3, 1891, (26 Stats. 1095) it is provided, in section 24 thereof, "that the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof."

123 The forest reserve act of June 4, 1897 (30 Stats., 34, 36), provides as follows: "That in cases in which a tract covered by an unperfected *bona fide* claim or by a patent is included within the limits of a public forest reservation, the settler or owner thereof may, if he desires to do so, relinquish the tract to the Government, and may select in lieu thereof a tract of vacant land open to settlement not exceeding in area the tract covered by his claim or patent; and no charge shall be made in such cases for making the entry of record or issuing the patent to cover the tract selected: Provided further, that in cases of unperfected claims the requirements of the laws respecting settlement, residence, improvements, and so forth, are complied with on the new claims, credit being allowed for the time spent on the relinquished claims."

The purpose of this last act and the original act of March 3, 1891, was to preserve the remaining forests on the public lands of the United States from depredation and destruction. To accomplish this object it was necessary that all lands within such forest reservations should belong to the United States for the purpose of full and complete administration and control, but Congress had previously granted to California, Oregon, and other public land States sections 16 and 36 in each township of the public lands within those States for school purposes. These lands were either held by the State for sale, or they had been sold and conveyed to private parties under the laws of the State providing for such sales. There were also settlers upon some of the lands within such reservations who had gone upon the lands to obtain title by entry and improvement under the homestead laws of the United States, but who had not perfected their titles by the necessary residence, improvements, and so forth, and there

124 were also others who had perfected their titles and had received patents from the United States therefor. To extinguish these titles and enable the Government to obtain title and

possession to all of the land within the reservation, Congress provided that a settler within the reservation might relinquish his unperfected *bona fide* claim and select in lieu thereof a tract of vacant land open to settlement not exceeding in area the tract covered by his claim, credit being allowed for the time spent on the relinquished claim. The statute also provided that the owner of a tract of land within the reservation might relinquish his land and select in lieu thereof a tract of vacant land open to settlement, not exceeding in area the tract covered by his patent. Under this provision would come those who had become the owners of school lands within the reservation by State patents. Now, what did Congress mean when it provided that the *owner* of land within a forest reservation might exchange his land for land open to settlement outside of the reservation? Did it not mean the owner of a full, complete, and indefeasible title? This was the title the Government had to offer for its land, and it must have been intended that the Government was to receive such a title in exchange.

We had before the circuit court of appeals for this circuit the question as to the title that could be exchanged under the forest reserve act, in Cosmos Exploration Co. *v.* Gray Eagle Oil Co., 112 Fed. 4, and while the precise question involved in this case was not there discussed, it was determined, in effect, that the titles to be exchanged were full and complete titles, and that the Government would not recognize the selection of land in lieu of land the title to which had been surrendered, until the selection had been approved in
125 the manner provided by law, for the reason that until such approval the selection was subject to be defeated by proof, either that the land was mineral in character and therefore not open to settlement, or that it was not vacant at the time the selection was made. In other words, no rights accrued against the Government until it was in a position to convey an indefeasible title. And this must be so. The Government cannot deal in fraudulent titles. It cannot impose an imperfect title upon the purchasers of its lands, and it cannot be imposed upon by those who seek to exchange fraudulently acquired titles for good ones. The United States has frequently been compelled to bring suit to recover the title to land where the patent has been issued, upon the grounds that the grantees have merely secured the legal title, and that the equitable title, the right to the land, still remains in the United States, and has never gone out of it, because the title had been obtained by fraud. Anyone familiar with the Spanish land grants and the litigation that grew out of those grants, knows that a great many suits were brought by the United States to cancel those patents and recover the titles that had been conveyed, upon the allegation of fraud and upon the claim that the equitable title remained in the United States.

The conspiracy in this case is charged to be the claim of ownership of land by the accused, the title to which they had obtained fraudulently from the State, leaving the equitable title in the State,

and the exchange of the legal title alone for land to which the Government had a perfect title and would convey, in exchange, a perfect and indefeasible title.

Ownership means the possession of the full and complete title. The books are full of decisions to that effect. To assume that Congress intended that patents should issue to lands in exchange
126 for lands to which the parties making the exchange had no title except that acquired by fraud, is to assume that Congress was proposing to engage in a most extraordinary method of disposing of the public lands. It is impossible to imagine that Congress would sanction anything of that kind. It has been forfeiting railroad land grants because it was claimed the railroads had not earned them or built the roads as Congress intended. It has forfeited grants to the States for the same reasons, and has authorized suits to recover grants for much less reason than the fraudulent transactions alleged in this indictment. It is impossible for this court to believe that Congress intended to dispose of the title to its public lands in any such way. As suggested by Judge De Haven, if the accused had gone into the Land Office and said, "We have the title to this land; but we went into the State land office and used the names of fictitious persons in our applications, and presented fictitious affidavits to obtain this land; and now we want you to give us a perfect title to land in exchange for our fraudulently acquired title." Does anyone suppose that an officer of the Government, while in possession of his senses, would carry out such a fraud? Does anyone suppose that the Secretary of the Interior would knowingly enter into a transaction of that kind? I think, if he did, he would expect to be impeached the next day and brought before the bar of Congress.

I am of the opinion that the indictment sufficiently charges an offense under the laws of the United States, and that the supreme court of the District of Columbia has jurisdiction of the offense. The court therefore declines to issue the writs of *habeas corpus*.

(Endorsed:) Filed September 3, 1904. Southard Hoffman, clerk, by W. B. Beaizley, deputy clerk.

127 In the Circuit Court of the United States, Ninth Judicial Circuit, Northern District of California.

In the Matter of the Petition of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari.

FREDERICK A. HYDE, Appellant,
vs.
JOHN H. SHINE, United States Marshal in and for the Northern District of California; George E. Morse, Clerk of the District Court of the United States, Northern District of California, and E. H. Heacock, United States Commissioner for the Northern District of California, Appellees.

Petition of Appeal.

The petition of the above-named petitioner, Frederick A. Hyde, for an order allowing an appeal to the Supreme Court of the United States from the final order hereinbefore entered in this case.

Frederick A. Hyde, the petitioner and appellant above-named, feeling himself aggrieved by the final order heretofore made and entered by this court in this case, on the third day of September 1904, whereby it was ordered that his application for a writ of *habeas corpus* directed to John H. Shine, United States marshal in and for the northern district of California, requiring the said marshal to bring and have your petitioner before this court and his application for a writ of certiorari directed to Honorable E. H. Heacock, United States commissioner for the northern district of California, and to George E. Morse, clerk of the district court for the northern
128 district of California, commanding them to return all proceedings, complaint, warrants, depositions, examinations, commitments and record of all proceedings against your petitioner to the circuit court of the United States forthwith for such action as might be proper in the premises, be and the same are hereby denied;

Now come Garret W. McEnerney and Bert Schlesinger, his attorneys and counsel, praying this court for an order allowing your said petitioner to prosecute an appeal from said final order of the United States circuit court to the Supreme Court of the United States and according to the laws of the United States in that behalf made.

Your petitioner is advised by his counsel that there are grave doubts as to whether the proceedings referred to in the petition for writs of *habeas corpus* and certiorari have not infringed the constitutional rights of your petitioner, and that the commitment of your said petitioner and the restraint of his person referred to in said petition is without authority of law, and that the said United States commissioner before whom your said petitioner was arraigned, as set

forth in the said petition hereinabove referred to, had no jurisdiction either to require bail of your said petitioner or to commit your said petitioner in default thereof, and that your petitioner desires in good faith to submit the constitutional questions, and other questions involved, to the Supreme Court of the United States for their determination.

Your petitioner will ever pray.

F. A. HYDE.

129 UNITED STATES OF AMERICA, *Northern District of California,* } ss:

Frederick A. Hyde, being duly sworn, on his oath deposes and says: That he is the petitioner above-named; that the foregoing petition is true of his own knowledge except as to those matters which are therein stated on his information and belief, and as to those matters, he believes it to be true.

F. A. HYDE.

Subscribed and sworn to before me this 3rd day of September, 1904.

[SEAL.]

W. B. BEAIZLEY,
Deputy Clerk U. S. Circuit Court,
Northern District of California.

(Endorsed:) Filed September 3, 1904, Southard Hoffman, clerk, by W. B. Beaizley, deputy clerk.

130 In the Supreme Court of the United States.

In the Matter of the Petition of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari.

FREDERICK A. HYDE, Appellant,
vs.
JOHN H. SHINE, United States Marshal in and for the Northern District of California; George E. Morse, Clerk of the District Court of the United States in and for the Northern District of California, and E. H. Heacock, United States Commissioner in and for the Northern District of California, Appellees.

Assignment of Errors.

The petition of Frederick A. Hyde, by Garret W. McEnerney and Bert Schlesinger, his counsel, in connection with his petition of appeal herein, entered herein to the Supreme Court of the United States from an order made and entered in the United States circuit court of the ninth judicial circuit in and for the northern district of

California, denying the writs of *habeas corpus* and certiorari, and makes and files the following assignment of errors:

1. The court erred in denying the petitioner's writs of *habeas corpus* and certiorari and remanding him to the custody of the United States marshal;

2. In refusing to grant said writs;

3. In refusing to discharge said petitioner;

131 4. In holding that the restraint of the petitioner's liberty is legal;

5. In holding that the restraint of your petitioner is not a violation of his substantial rights;

6. In holding that said alleged indictment stated an offense against the laws of the United States;

7. In holding that the alleged indictment was sufficient upon which to base a warrant of removal;

8. In holding that there was sufficient evidence of probable cause;

9. In holding that the warrant of removal made by the United States district judge for the northern district of California was issued upon the finding of probable cause;

10. In failing to hold that your petitioner is deprived of his liberty without due process of law in violation of article V of the amendments of the Constitution of the United States, in that the complaint and evidence referred to herein, which were the sole authority for petitioner's arrest and commitment as aforesaid, failed to charge the petitioner with any crime against the laws of the United States;

11. In failing to hold that petitioner's detention was in violation of article V of the amendments to the Constitution of the United States, in that the said United States commissioner and the United States district judge had no jurisdiction to order the arrest and commitment of the petitioner, and that your petitioner is held to answer for an infamous crime without any sufficient or valid indictment of a grand jury;

12. In failing to hold that the restraint of your petitioner is in violation of article IV of the amendments to the Constitution

132 of the United States, because it appears from the indictment upon which the warrant in this case was issued to be wholly void;

13. In failing to hold the restraint of your petitioner is in violation of the provisions of article IV of the amendments to the Constitution of the United States, for the reason that it would be an unreasonable seizure of the person of your petitioner to remove him from the State of California, where he resides, to the District of Columbia, for the reasons particularly specified in his petition for a writ of *habeas corpus*;

14. In holding that a warrant of removal should issue, for the reason that the proceedings conclusively show that the venue for the facts alleged in the indictment is in the northern district of California;

15. In holding that the warrant of removal is properly issued, as the record and proceedings conclusively show that the transactions complained of occurred within the northern district of California, that the witnesses reside within said State, that your petitioner did not conspire to commit any offense within the District of Columbia;

16. In failing to hold that the indictment which forms the basis of all of the proceedings against your petitioner has been declared void and invalid by the United States circuit court in and for the southern district of New York, upon the ground that said indictment did not set forth facts tending to show a conspiracy to commit an offense against or to defraud the United States;

17. In holding that your petitioner was in the custody of the said John H. Shine, United States marshal in and for the northern district of California, and deprived of his liberty by him by due process of law;

133 18. For other errors appearing on the record, by reason whereof the petitioner prays that the said order dismissing the said writ of *habeas corpus* be reversed and the prisoner discharged from custody.

GARRET W. McENERNEY,
BERT SCHLESINGER,
Attorneys & Counsellors for F. A. Hyde.

(Endorsed:) Filed September 3, 1904, Southard Hoffman, clerk, by W. B. Beaizley, deputy clerk.

134 In the Circuit Court of the United States, Ninth Judicial Circuit, Northern District of California.

In the Matter of the Petition of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari.

FREDERICK A. HYDE, Appellant,
vs.
JOHN H. SHINE, United States Marshal in and for the Northern District of California; George E. Morse, Clerk of the District Court of the United States, Northern District of California, and E. H. Heacock, United States Commissioner for the Northern District of California, Appellees.

Notice of Appeal.

SIRS: Please take notice that Frederick A. Hyde, the petitioner above named, hereby appeals to the Supreme Court of the United States from the final order made and entered on the 3rd day of September 1904, by the Honorable W. W. Morrow, judge of the circuit court of the United States, ninth judicial circuit, northern

district of California, denying his application for writs of *habeas corpus* and certiorari, and from each and every part of said order.

Dated at the city and county of San Francisco, State of California, on the — day of September 1904.

Respectfully,

GARRET W. McENERNEY,
BERT SCHLESINGER,
Attorneys for Petitioner.

(Endorsed:) Filed September 3, 1904, Southard Hoffman, clerk, by W. B. Beaizley, deputy clerk.

135 In the Supreme Court of the United States.

UNITED STATES
vs.
FREDERICK A. HYDE.

Bond for Appearance of Petitioner.

Be it remembered, that on the third day of September, 1904, before me Southard Hoffman, clerk of the circuit court of the United States, ninth judicial circuit, northern district of California, personally came Frederick A. Hyde, as principal, and L. S. Sherman and H. C. Morris as sureties, and severally acknowledged themselves to owe to the United States of America in the sum of ten thousand ($10,000) dollars, separately to be levied and made on their respective goods, chattels, lands and tenements to the said United States of America, if default shall be made in the conditions following, to wit:

Whereas, the said Frederick A. Hyde was detained in the custody of John H. Shine, as United States marshal for the northern district of California, under commitment and warrant of removal to the District of Columbia, granted by Honorable John J. De Haven, judge of the United States district court for the said northern district of California, on the 2nd day of September, 1904.

Whereas, the said Frederick A. Hyde made an application to the United States circuit court, before Honorable W. W. Morrow, circuit judge, on the 3rd day of September, 1904, for a writ of *habeas corpus*, and directed to the said John H. Shine, United States marshal in and for said northern district of California, requiring said
136 marshal to bring and have said Frederick A. Hyde before said court, together with the true cause of his detention; and

Whereas, the said Frederick A. Hyde made an application to the United States circuit court, before Honorable W. W. Morrow, on the said 3rd day of September, 1904, for a writ of certiorari, directed to Honorable E. H. Heacock, United States commissioner, and to George E. Morse, clerk of the United States district court for the northern district of California, in aid thereof, commanding that they

return all proceedings against your petitioner to the said circuit court forthwith for such action as might be proper in the premises; and

Whereas, on the 3rd day of September, 1904, the said Honorable W. W. Morrow, United States circuit judge, did make his final order denying said application for writ of *habeas corpus*; and

Whereas, the said Frederick A. Hyde has appealed from said final order to the Supreme Court of the United States; and

Whereas, the said Honorable W. W. Morrow, United States circuit judge, did thereupon allow such appeal, and ordered that pending such appeal the custody of said Frederick A. Hyde should not be disturbed, and ordered that the said Frederick A. Hyde be enlarged upon bail in the sum of ten thousand dollars for his appearance, to answer the exigency and determination of such appeal and to personally abide the final decision and determination of said Supreme Court of the United States in that behalf:

Now therefore, the condition of this obligation is such that if the said Frederick A. Hyde shall duly personally appear in the
137 circuit court of the United States, ninth judicial circuit, northern district of California, to answer the exigency and determination of said appeal and personally abide the final decision and determination of the said Supreme Court of the United States, and of said circuit court of the United States upon the mandate of the said Supreme Court of the United States, and obey and abide the orders of said circuit court of the United States, and not depart without leave upon the conditions aforesaid and upon the entry of said orders upon said appeal, then this recognizance to be void, otherwise to remain in full force and virtue.

F. A. HYDE. [SEAL.]
L. S. SHERMAN. [SEAL.]
HENRY C. MORRIS. [SEAL.]

Taken and acknowledged before me the day and year first above written.

[SEAL.] SOUTHARD HOFFMAN,
Clerk U. S. Circuit Court, N. D. C.

UNITED STATES OF AMERICA, } ss:
Northern District of California, }

L. S. Sherman and Henry C. Morris, each being duly sworn, for himself says that he is worth more than the sum of ten thousand dollars over and above all his just debts and liabilities.

L. S. SHERMAN.
HENRY C. MORRIS.

Sworn to before me this 3rd day of September, 1904.

[SEAL.] SOUTHARD HOFFMAN,
Clerk U. S. Circuit Court, N. D. C.

Approved as to form, amount and sufficiency.

SOUTHARD HOFFMAN,
Clerk United States Circuit Court, N. D. C.

138 (Endorsed:) Filed September 3, 1904, Southard Hoffman, clerk, by W. B. Beaizley, deputy clerk.

139 In the Supreme Court of the United States.

In the Matter of the Petition of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari.

FREDERICK A. HYDE, Appellant,
vs.
JOHN H. SHINE, United States Marshal in and for the Northern District of California; George E. Morse, Clerk of the District Court of the United States in and for the Northern District of California, and E. H. Heacock, United States Commissioner in and for the Northern District of California, Appellees.

Bond for Costs on Appeal.

Know all men by these presents, that we, Frederi*al* A. Hyde, as principal, and C. W. Clarke and L. S. Sherman, as sureties, are held and firmly bound unto the United States of America, in the full and just sum of five hundred ($500.00) dollars, to be paid to the United States, to which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 3rd day of September, 1904.

Whereas lately, to wit: on the 3rd day of September, 1904, at the circuit court of the *of the* United States in and for the ninth
140 judicial circuit, northern district of California, in a proceeding therein pending, an order was entered denying the application of the above-named petitioner for writs of *habeas corpus* and certiorari, and said petitioner having duly obtained an appeal from the said order to the Supreme Court of the United States and filed a copy thereof in the clerk's office of the said circuit court to review the same,

Now the condition of the above obligation is such, that if the said petitioner, Frederick A. Hyde, shall prosecute said appeal to effect, and shall answer all costs if he shall fail to make said appeal good, then this obligation to be void, else to remain in full force and effect.

F. A. HYDE. [SEAL.]
C. W. CLARKE. [SEAL.]
L. S. SHERMAN. [SEAL.]

Sealed and delivered and taken and acknowledged this 7th day of September, 1904, before me

[SEAL.] L. MEININGER,
Notary Public in and for the City and County of San Francisco, State of California.

UNITED STATES OF AMERICA, *Northern District of California,* } ss:

C. W. Clarke and L. S. Sherman, each being duly sworn, for himself says that he is worth more than the sum of five hundred ($500.00) dollars over and above all his just debts and liabilities.

C. W. CLARKE.
L. S. SHERMAN.

Sworn to before me this 7th day of September, 1904,

[SEAL.] L. MEININGER,
Notary Public in and for the City and County of San Francisco, State of California.

141 Approved as to form, amount and sufficiency.

WM. W. MORROW,
United States Circuit Judge.

(Endorsed:) Filed September 7, 1904, Southard Hoffman, clerk, by W. B. Beaizley, deputy clerk.

142 In the Circuit Court of the United States, Ninth Judicial Circuit, Northern District of California.

In the Matter of the Application of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari. No. 13652.

Certificate to Record on Appeal.

I, Southard Hoffman, clerk of the circuit court of the United States of America, of the ninth judicial circuit, in and for the northern district of California, do hereby certify the foregoing one hundred and forty-one (141) pages, numbered from 1 to 141 inclusive, to be a full true and correct copy of the record and the proceedings in the above and therein entitled matter, as the same remains of record and file in the office of the clerk of said court, and that the same constitute the transcript of the record herein upon appeal to the Supreme Court of the United States.

I further certify that the cost of the foregoing transcript of record is $131.50, that said amount was paid by the petitioner Frederick

A. Hyde, and that the original citation issued herein is hereto annexed.

In witness whereof, I have hereunto set my hand and affixed the seal of said circuit court, this 26th day of September, A. D., 1904.

[Seal U. S. Circuit Court, Northern Dist. Cal.]

SOUTHARD HOFFMAN,
Clerk of the United States Circuit Court, Ninth Judicial Circuit, Northern District of California.

143 In the Supreme Court of the United States.

In the Matter of the Petition of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari.

FREDERICK A. HYDE, Appellant,
vs.
JOHN H. SHINE, United States Marshal in and for the Northern District of California; George E. Morse, Clerk of the District Court of the United States in and for the Northern District of California; and E. H. Heacock, United States Commissioner in and for the Northern District of California, Appellees.

Citation on Appeal.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to Marshall B. Woodworth, United States district attorney for the northern district of California; Southerd Hoffman, clerk of the United States circuit court for the northern district of California; John H. Shine, United States marshal in and for the northern district of California; E. H. Heacock, United States commissioner for the northern district of California, and George E. Morse, clerk of the United States district court for the northern district of California:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States at the city of Washington, within sixty days from the date of this writ, pursuant to an appeal duly allowed by the circuit court for the ninth judicial cir-
144 cuit, northern district of California, and filed in the clerk's office of said court on the 3rd day of September, 1904, in a cause entitled "In the matter of the petition of Frederick A. Hyde for writs of *habeas corpus* and certiorari, Frederick A. Hyde, appellant, *vs.* John H. Shine, United States marshal in and for the northern district of California, E. H. Heacock, United States commissioner in and for the northern district of California, and George E. Morse, clerk of the district court of the United States in and for said northern district of California, appellees," to show cause, if any, why the final order of the said circuit court, rendered against the appellant as in said appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable W. W. Morrow, judge of the United State circuit court, this 7th day of September, A. D. 1904.

WM. W. MORROW,
Judge of the Circuit Court of the United States.

145 [Endorsed:] Original. No. 13,652. Supreme Court of the United States. Frederick A. Hyde, appellant, *vs.* John H. Shine, United States marshal, *et al.*, appellees. Citation on appeal. Filed September 8, 1904. Southard Hoffman, clerk. Garret W. McEnerney and Bert Schlesinger, attorneys for appellant, Crocker building, San Francisco.

146 In the Supreme Court of the United States.

In the Matter of the Petition of FREDERICK A. HYDE for Writs of *Habeas Corpus* and Certiorari.

FREDERICK A. HYDE, Appellant,
vs.
JOHN H. SHINE, United States Marshal in and for the Northern District of California; George E. Morse, Clerk of the District Court of the United States in and for the Northern District of California, and E. H. Heacock, United States Commissioner in and for the Northern District of California, Appellees.

Admission of Service of Citation.

Service of a copy of the citation on appeal in the above entitled matter is hereby acknowledged this eighth day of September, 1904.

MARSHALL B. WOODWORTH,
United States District Attorney for the Northern District of California.

SOUTHARD HOFFMAN,
Clerk of the U. S. Circuit Court for the Northern Dist. of California.

JOHN H. SHINE,
United States Marshal for the Northern Dist. of California,
Per A. L. FARISH, *Chief Office Deputy.*

E. H. HEACOCK,
United States Commissioner for the Northern Dist. of California.

GEO. E. MORSE,
Clerk of the United States District Court for the Northern District of California.

(Endorsed:) Filed September 8, 1904, Southard Hoffman, clerk.

Endorsed on cover: File No. 19,506. N. California C. C. U. S. Term No. 406. Frederick A. Hyde, appellant, *vs.* John H. Shine, United States marshal in and for the northern district of California, *et al.* Filed October 28th, 1904. File No. 19,506.